

The ANSWER of Robert Earl of Oxford and Earl Mortimer, to the Articles exhibited by the Knights, Citizens and Burgesses in Parliament assembled, in the Name of Themselves, and of all the Commons of Great Britain, in Maintenance of their Impeachment against Him for High Treason, and other High Crimes and Misdemeanors, supposed to have been by Him committed.

THE said Earl, saving to himself all Advantages of Exception to the said Articles, and of not being prejudiced by any Words, or want of Form in this his Answer; and also saving to himself all Rights and Priviledges belonging to him as one of the Peers of this Realm, for Answer to the said Articles saith, *He admits many solemn Treaties and Alliances have been formerly entered into between the Crown of England, and other Princes and Potentates of Europe for their mutual Security, and to prevent the immoderate Growth of the Power of France, which might prove dangerous to the Neighbouring Princes and States: And that it was therefore laid down as a fundamental Principle and Maxim of Union amongst the Allies, that France and Spain should never come and be united under the same Government, and that one and the same Person should not be King of both those Kingdoms; and he apprehends, that the principal View and Aim of the Allies was to settle and maintain an equal Ballance of Power in Europe and since the Conjunction of Spain to the Dominions of France might possibly ensue, from the Duke of Anjou's being possessed of that Crown, the dispossessing him was desir'd as the most likely Means to prevent that Conjunction; and for the same Reason the Union of Spain with the Empire, must have been equally fatal, and the Prevention of it equally the design of the Alliance; nor could the continuance of Spain in the House of Bourbon be in any respect prejudicial to the Allies, if the Union of that Crown with France could be prevented. As new Dangers of such Union have been apprehended, new Treaties and Stipulations have been entred into amongst the Allies to obviate such Dangers and particularly the Treaty for an intended Partition, seems to*

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have been concluded upon that View ; and tho' he acknowledges the Wisdom of Parliament in condemning that Treaty, as prejudicial and fatal in its Consequences to *England* and the Peace of *Europe*, yet he presumes it was not condemn'd, because part of the Dominions of the Crown of *Spain* were thereby allotted to the House of *Bourbon* ; but because such considerable Parts of those Dominions, as the Kingdoms of *Naples* and *Sicily*, and the Province of *Guiposca* and other Territories were allotted to that Branch of the House of *Bourbon*, to whom the Crown of *France* was to descend, which might have been a great and dangerous Addition to the then formidable Strength of that Crown, and because it was made against the repeated Remonstrances of *Charles II* then King of *Spain*, who declared by his Ambassador, *That such Partition Treaty could have no other Effect than to force Spain to throw it self into the Arms of France to prevent the Dismembering of the Spanish Monarchy*: And that it had this Consequence appear'd upon the Death of that Prince, who seems to have been induc'd by that Consideration to bequeath the entire Monarchy of *Spain* to the Duke of *Anjou*, a younger Branch of the House of *Bourbon*, who accordingly upon the Demise of the said King *Charles II*, took Possession of the Monarchy of *Spain*. But this Accession of the Duke of *Anjou* to the Crown of *Spain* did not produce the Alliance in the Article mention'd between *Leopold* then Emperor of *Germany*, his late Majesty King *William III*, of ever Glorious Memory, and the States General as immediately necessary at that Juncture ; for King *William*, as well as the States General, acknowledg'd the Duke of *Anjou* as King of *Spain*, thereby allowing, that the Duke of *Anjou's* Enjoyment of the Monarchy of *Spain*, while he was but a younger Branch of the House of *Bourbon*, was not destructive of the Liberties of *Europe*, or the Preservation of a due Ballance of Power. And afterwards, when the French King had seiz'd the *Spanish Netherlands*, King *William*, by Advice of Parliament, came into the Assistance of the States as Auxiliary only, by sending, upon their Request, Ten thousand Men, which *England* was oblig'd by Treaties to furnish in case the States were attacked ; after which many Conferences pass'd at the *Hague* betwixt the Ministers of *England* and the States, and those of *France*, in order to find out some Expedient, by which, upon a reasonable Division of the Dominions of *Spain*, a new War might be prevented : And the States in the Course of those Conferences often asserted, *That tho' they had acknowledged Philip King of Spain, yet such an Acknowledgment was not contrary to the Demand of a reasonable Satisfaction to be given to the Emperor for his Pretention to the Spanish Succession* ; which was in Effect to declare, *That the Satisfaction demanded for*

for the Emperor was such as would leave King Philip in possession of Spain. But these Conferences broke off about August 1701. without Effect, and in September following King William entred into the Grand Alliance with the Emperor and the States General, whereby it was agreed, That in the first Place Endeavours should be used by amicable Means to obtain the Satisfaction desir'd for the Emperor, who probably at that Time would have accepted a very easy Composition for his Pretensions: But when the French King acknowledged the Pretender as King of England, which not long after happen'd, his Majesty King William and the Parliament of England, justly provoked by this Affront, resolv'd to enter into the War which had been begun by the Emperor alone in Italy the Year before. And the late Queen mentions this Indignity as the chief Motive of Her engaging in it, as appears by Her Declaration of War against France and Spain in May 1702.

The said Earl admits the several Treaties set forth in the Preamble to the said Articles, and that such Advice was given by Parliament, and such Speeches were made from the Throne as in the said Preamble are mentioned; but for more Certainty, begs leave to refer himself to the very Treaties, Addresses of Parliament, and Speeches, when they shall be produc'd: And he humbly hopes your Lordships will allow him to observe, that those Treaties manifestly shew, That the Design of the Allies, in endeavouring the Recovery of Spain from the House of Bourbon was, to prevent the Union of those two potent Kingdoms, in one and the same Person. In the Grand Alliance 1701, the avow'd Ends thereof are, The procuring an equitable and reasonable Satisfaction to his Imperial Majesty for his Pretension to the Spanish Succession, the Security of the Dominions of the King of Great Britain and States-General, with the Navigation and Commerce of their Subjects, the preventing the Union of France and Spain under the same Government; and the Territories and Provinces pointed out in the Fifth Article, were the furthest Views of that Alliance; whereby it was thought his Imperial Majesty would receive the utmost Satisfaction which he could reasonably demand for his Pretension to the Spanish Succession. No Mention is made of the Recovery of the whole Monarchy of Spain to the House of Austria, either in the Grand Alliance, or in the Defensive One made the same Year between his Majesty King William and the States-General: And when in the Treaty between the Emperor, the Queen of Great Britain and the States-General on the one Part, and the King of Portugal on the other, about May 1703, it was concerted to place Arch-duce Charles, the present Emperor, upon the Throne of Spain, he was then but a younger Branch of the House of Austria; and there is great Reason to believe, that

that the Queen as well as other Princes of *Europe*, and in particular the King of *Portugal*, did not think a Treaty to procure the Crown of *Spain* for the Arch-duke, when a younger Branch of the House of *Austria*, did lay any Obligation of procuring that Monarchy for him, when he became First of that House, and was elected Emperor ; since the Imperial and Hereditary Dominions, join'd to the whole *Spanish* Monarchy, would have given such Excess of Power to one Prince, as would have been formidable to *Europe*, and a Means to destroy that Ballance of Power which Her Majesty, in all her Treaties, had constantly labour'd to preserve ; and it is a known and an allow'd Rule, by the Law of Nations, in reference to Leagues between Princes, That if there happens a material Change in what was the principal Ground and Cause of the Treaty, the Obligation thereof ceases. If therefore in the Preliminary Articles in 1709, and afterwards in the Conferences at *Gertruydenberg*, a Cession of the *Spanish* Monarchy to King *Charles* the Third, who was then younger Brother to the Emperor, was thought Reasonable to be insisted on ; yet the said Earl humbly submits to your Lordships great Judgment. Whether there was equal Reason for insisting on such Cession, when King *Charles* the Third was become Head of that House, and had Possession of the Empire and all the Hereditary Countries of *Austria*, as a Condition without which no Peace should be made : The States-General were so far from admitting or yielding that the Monarchy of *Spain* should in all Events be given to the House of *Austria*, that he the said Earl hath heard, they refus'd to admit it to be inserted as a Condition of their Barrier-Treaty, when propos'd by her Majesty's Ambassador at the *Hague*, and chose rather to put a Stop to the Proceedings of that Treaty, and hazard the Advantages they thereby expected, than comply with that Proposal. The Advice of Parliament is of great Weight, to which her late Majesty always gave, and the said Earl always paid a just Regard, and he doubts not but the House of Peers had proper Inducements when they gave their Advice to the Throne, *That no Peace would be Safe, Honourable or Lasting, so long as the Kingdom of Spain and the West Indies continued in the Possession of any Branch of the House of Bourbon* : But if he may be permitted to offer his humble Conjecture of the Motives of that Advice, he conceives it might proceed from an Apprehension of a future Union of those two Crowns as likely to ensue, in Case *Spain* should continue in the Possession of any who might become Heir to the Crown of *France*, and that even the Conjunction of the Empire and *Spain* would be less dangerous than such an Union. But when Her Majesty communicated to Her Parliament, the 6th of *June* 1712, the Terms upon which a Peace might be made, and thereby inform'd them, *That*

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France had been brought to offer, that the Duke of Anjou should, for himself and his Descendants, renounce for ever all Claim to the Crown of France and that at the same Time the Succession to the Crown of France was to be declared, after the Death of the then Dauphin and his Sons, to be in the Duke of Berry and his Sons, in the Duke of Orleans and his Sons, and so on to the rest of the House of Bourbon; and that the Succession to Spain and the West Indies, after the Duke of Anjou and his Children, was to descend to such Prince as should be agreed upon at the Treaty of Peace, for ever excluding the rest of the House of Bourbon: Both Houses of Parliament, by their respective Addresses to Her Majesty, in the same Month, express'd their intire Satisfaction. And as the House of Commons desir'd Her Majesty to proceed in the Negotiations then depending for obtaining a speedy Peace; so the House of Lords assur'd Her Majesty, That they entirely rely'd on Her Majesty's Wisdom to finish that Great and Good Work. And after Her Majesty had concluded a Peace on those Terms, both Houses of Parliament, severally, congratulated Her Majesty on the Conclusion of the Peace; and also join'd in an Address of the 22d of April 1714, expressing their just Sense of Her Majesty's Goodness to Her People, in delivering them by a Safe, Honourable and Advantageous Peace with France and Spain, from the heavy Burthen of a Consuming Land War, Unequally carry'd on, and become at last Impracticable.

He the said Earl acknowledges, that Her Majesty was pleas'd about August 1710, to re-admit him, among others, to a Place in Her Council, and to require his Service in Offices of Trust; to which he submitted purely in Obedience to Her Majesty's Commands, with great Reluctance, from the Prospect of the Difficulties with which he was likely to struggle. But as he never ask'd any Employment, nor us'd any wicked Art, or base Insinuations, to obtain the same from Her Majesty; so in all Employments, with which Her Majesty was pleas'd to Honour him, he sincerely endeavour'd to discharge his Duty with the utmost Integrity; having always with the truest Zeal desir'd and endeavour'd, as far as he could, to promote the Honour and Service of Her Majesty, whose Aim he knew to be the Welfare of Her Kingdoms in the first Place, and as far as She judg'd it consistent with that, the Common Good of Her Allies.

In or about the Month of September 1710. Her Majesty (whose undoubted Prerogative it was) thought fit to Dissolve the Parliament then in being, and called a new one. In the Year 1711. Propositions were made by France to Her Majesty for a Peace, without the Contrivance, or previous Knowledge of the said Earl: Her Majesty, out of her Affec-

tion for Her People, having it much at Her Heart to establish Peace in Her own Days, express'd Her Concern for the Disappointment of former Negotiations, and Her earnest Desire to put a speedy End to the War, and to the Effusion of Christian Blood, and to ease Her Subjects from the heavy Burthen of the Taxes; the said Earl doth acknowledge, that he thought a Peace was very much for the Interest and Advantage of *Great Britain*: And in his humble Opinion, the most favourable Juncture for obtaining advantageous Terms of Peace, was immediately after the signal Victories, gained by Her Majesty's Arms, in the Year 1706. For after the Reduction of the Dominions of the Electors of *Bavaria* and *Cologne*, with other important Conquests in *Germany*: After the entire Destruction of the Three Great Armies of *France* in *Flanders*, *Spain* and *Piedmont*: After the Allies had recover'd the *Spanish Netherlands*, *Milan* and other Territories in *Italy*, it might have been hoped, from the great Distress in which the Enemy then was, a just and reasonable Peace would have been obtained, since so much was at that time gained from the Enemy and so much the more, in all probability, would have been yielded by them, as would have fully answer'd the Ends of the Grand Alliance. Peace was at that time sought by the Enemy; and the said Earl who had the Honour to be then one of the Principal Secretaries of State, owns he then advised the accepting of it. And he humbly begs leave to observe, That the War had been continued upon so unequal a Foot, that the Burthen of it Annually increas'd, and at the time when these Proposals were made by *France*, was become almost insupportable. It had indeed been stipulated by the Grand Alliance, *That the Allies should assist one another with all their Forces, according to a Specification to be agreed on in a Particular Convention for that Purpose*: But it doth not appear any such Convention was made, otherwise than as the House of Commons were inform'd by one of the Principal Secretaries of State to His late Majesty King *William*, *That by the Proportion adjusted with the States, England was to furnish Two Parts of Five by Land, and the States the other Three; and England was to furnish Five Parts of Eight by Sea, and the States the other Three*: But the States not always allowing themselves to be under an Obligation to furnish such Proportions, gave Occasion to *England's* bearing an unequal Part in the War, with respect to the Allies. The States had that prudent Regard to the frugal ordering of their Affairs, that they frequently insisted, they ought not to be press'd beyond their Ability, and made themselves the sole Judges of what came within the compass of it, and by that means avoid'd the supplying any Quota, or Proportion, which they thought improper for them to furnish. In the mean time the Charge of the War was

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greatly increased upon the Subjects of *Great Britain*. In the Year 1702, it was under Four Millions from thence it gradually increas'd till 1706, the Charge of which Year amounted to above Five Millions and an half and still advancing 'till the Year 1711, it was then grown to near Seven Millions, and at the same time there was a Debt contracted, not provided for by Parliament, amounting to Seven or Eight Millions; the very Interest of which, and other Debts wherein the Nation was involved, amounted to Three Millions *per Ann.* and the Revenues of *Great-Britain* were under such Anticipations, that it was found difficult to raise above Two Millions and an half for the growing Service, to be paid within the compass of the Year. So that when the Duties and Difficulties upon Trade, and the continuance of the Taxes upon Land, which had lain so heavy above Twenty Years, are consider'd, the said Earl believes it could not be thought for the Publick Interest to prolong the War, without an absolute Necessity.

During this time the States had manag'd with so good Oeconomy, that the said Earl hath not heard of any additional Duty laid by them upon Trade from the Year 1702, to the Year 1711. What Acquisitions were made upon the Continent during the Continuance of the War, tho' at the Expence of *British* Blood and Treasure, accrued to the Share of the Allies; and the *Dutch* being under no Prohibition of Commerce with *France*, had a farther Advantage of the *British* Merchants, in respect to a free Trade, Altho the Princes of the Empire were engaged by previous Treaties to furnish their Quota's to the common Cause, yet when they were often pressed to do it, they alledg'd in Excuse, *That those Troops which they were oblig'd to furnish at their own Expence, were in the Pay of the Crown of Great Britain.* The Emperor left it to Her Majesty to provide for those Troops, which by the *Portugal* Treaty, in the Year 1703. he was to furnish. The King of *Portugal* not only neglected the Proportion of 12000 Foot and 3000 Horse, which by the said Treaty he was to provide at his own Expence, but even refused to permit the 11000 Foot and 2000 Horse, for which he had a Subsidy from her Majesty to be paid by Musters, according to an Article of that Treaty; and when pressed to furnish his full Number of Troops, alledg'd his Inability for want of that part of the Subsidies which the States ought to have paid him. So that almost the whole Charge of the War in *Spain* was left upon Her Majesty, the States having sent few or no Troops thither after the Battle of *Almanza*; and all the other Allies being likewise defective in their Proportions.

This was the Condition of Affairs, with respect to the Charge of the War, nor did there appear from the then Situation of Affairs any more,

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promising Prospect, with regard to the Event: For altho' it had pleased God to bless Her Majesty's Arms with wonderful Success, at which the said Earl most sincerely rejoiced, yet it did not appear, that after the Year 1706, our Successes in other Parts had countervail'd our Losses in *Spain*; for after two great Battles, wherein we had been there defeated, after our Forces had been twice obliged to retire from *Madrid*, and after the taking the *British* Troops at *Brihuega*, the Recovery of *Spain*, (which was the main Article that retarded the Conclusion of the Peace at *Gertrudenberg*) seem'd almost desperate, especially since the *French* in the Year 1711. by their plentiful Vintage and Harvest, had well nigh recover'd the Effects of the Famine; and since some of the Allies at the same time made pressing Instances for recalling part of the Troops, as they had done frequently, during the Course of the War: from whence it appears how just the Grounds were, upon which both Houses of Parliament represented to Her Majesty, *That the War had been unequally carry'd on, and was at last become impracticable.* And the said Earl humbly hopes he shall not be thought to have design'd any Disservice to his Country, if in such Condition of Affairs he did not dissuade Her Majesty from hearkening to the Overtures of Peace, made to Her from *France*; or if during such Negotiations, he endeavour'd, by Corresponding, with Her Majesty's Knowledge and Approbation, in any Courts concern'd therein, to rectify any Mistakes, or contribute in any Measure towards the Conclusion of a General Peace. But the said Earl believes, that in all the Negotiations towards such Peace, the Allies had such Knowledge and Communication of all the Measures therein taken by Her Majesty, as the Treaties Her Majesty was engag'd in, requir'd: That the Propositions transmitted from *France*, about April 1711, were immediately communicated to the Pensionary and Ministers of *Holland*. That Her Majesty did at the same time assure them of Her Resolution, to act in Concert with them, in making Peace as in making War. That when the States had expressed their Desires to be equal with those of *Great Britain*, for a general and lasting Peace, and had declar'd, That they were ready to join in proper Measures to procure it, and desir'd *France* might explain it self more particularly upon the Points contain'd in those Propositions; Her Majesty endeavour'd to obtain such Explanations, and afterwards communicated them to the States: And if Her Majesty had thought it not expedient to proceed in the Method of a Preliminary Treaty, which had prov'd so ineffectual in the Year 1709 and 1710, but thought it might be sufficient to have Articles sign'd by a Minister of *France*, by his Sovereign's Command, to open Conferences for a Peace; The said Earl humbly hopes, that this Proceeding

ceeding will be so far from being an unreasonable Deviation from the Methods of former Transactions in that kind; that it will be justify'd by many Precedents of such Treaties. The said Earl can affirm, that during the whole Negotiation, so far as he was concern'd, he acted with a sincere Intention, to obtain a General Peace for the Welfare and Honour of Her Majesty and Her Kingdoms, and such as might give *reasonable Satisfaction* to Her Allies, and answer all the Obligations Her Majesty was under, by any Treaties with any of the Confederates; and is not conscious to himself, that he hath in any respect transgressed that Duty, which as a Privy Counsellor, or Officer of State, he did owe to Her Majesty, or to the Publick. He is not insensible that many of the Articles, wherewith he stands charged, are complicated with such Circumstances, Aggravations and Inferences as may render it difficult for him to acknowledge some Facts allow'd, without acknowledging or seeming at least to acknowledge those Circumstances or Inferences. And as he is not conscious to himself of being guilty of any Crime he stands charg'd with, so he takes it to be agreeable to the common Course of Proceedings of this Nature, and to your Lordship's Justice, that he should not admit any Circumstances, which may tend to the Accusation of himself. He therefore begs leave that he may be allow'd to distinguish between the Facts themselves, and the Inferences drawn from them; and that whenever he acknowledges any Fact, he may not be understood to acknowledge those Consequences which are in the Articles, deduc'd from it, unless it shall appear that the Consequence was the Aim and Design of the said Earl, or is the necessary Result of any Act he hath done.

ARTICLE I.

IN answer to the First Article, the said Earl saith, That he always had the greatest Regard to the Honour and Safety of Her late Majesty and Her Kingdoms, to all the Engagements She was under to the Allies of this Nation, and to the common Liberties of *Europe*; that he never was devoted to the Interest or Service of the *French King*; That he is not conscious to himself of having acted, whilst he had the Honour to be Her late Majesty's *High Treasurer*, or one of Her Most Honourable Privy Council, contrary to his Oath, or in Violation of his Duty and Trust, or with Disregard to, much less Defiance of any Treaties in the said Article mention'd, of the Advices of Parliament, Her Majesty's Declarations from the Throne, or any mutual Assurances which had been made or renew'd between Her Majesty and the States, to act in perfect Concert with each other in making Peace as in making War; And he utterly denies, that in or about the Months of *July* or *August* 1711, or at any other Time he did form any Contrivance or Confederacy

ay to set on Foot a private, separate, dishonourable or destructive Negotiation of Peace between *Great Britain* and *France*; nor doth he know of any such Contrivance or Confederacy form'd by any of Her Majesty's Privy Council, or that such Negotiation was at any time set on foot. But the said Earl says, He does believe that about the Month of *April* 1711. her late Majesty did receive from *France* some Proposals in order to set on foot a Treaty for a general Peace, sign'd by *Monf. de Torcy*, Secretary of State to the most Christian King, which, as he believes, were immediately communicated by Her Ambassador in *Holland* to the States-General: Whereupon, as he has been inform'd, they thanked Her Majesty for Her Confidence in them, declar'd themselves to be weary of the War, and ready to join in any Measures Her Majesty should think proper for obtaining a good Peace, and that they hoped Her Majesty would bring the *French* to explain more particularly the several Points contain'd in the above-mention'd Proposals, or to that Effect; and that after such Request, Her Majesty sent *Matthew Prior*, Esq; to the Court of *France*, in order to obtain as full and ample Explanation as he could of the first general Offers: But the said Earl denies, that he did advise Her Majesty to send the said Mr. *Prior* to the Court of *France*, to make Propositions of Peace, without communicating the same to Her Allies; or that the said Mr. *Prior* did by his Advice or Privy communicate any Propositions to the Ministers of *France*, wherein the Interests of *Great Britain*, or the common Interest of *Europe* were betray'd; nor doth the said Earl know, that the said Mr. *Prior* had any Power to communicate Propositions to the Ministers of *France*, which betray'd either the Interests of *Great Britain*, or the common Interest of *Europe*. Therefore the said Earl insists, that there is no Ground to charge him with the treacherous or pernicious Contrivances in this Article mention'd. And if any Article was inserted in any Propositions to be communicated by the said Mr. *Prior*, that the Secret should be inviolably kept till allow'd to be divulg'd by the mutual Consent of both Parties, yet the said Earl denies, that such Article was inserted by his Advice; and if any such there was, he cannot however believe it was design'd to exclude Her Majesty's Allies from their just Share in the said Negotiations, and hopes he may be allow'd to observe, That in case any Instructions were given for not divulging Propositions which concern'd *Great Britain* in particular, the same were far from manifesting such Design as is before-mention'd, since it is well known to be the undoubted Right of every Member of a Confederacy to demand particular Advantages for themselves, nor inconsistent with their Alliances, and which are not to take Place but on the Conclusion of a General Peace. And it has been usual for those to whom the first Overtures of Peace are

to be made, to make Demands for themselves in the First Place, as the States particularly did in the Negotiations at the *Hague* in the Year 1709, *Gertrudenberg* in the Year 1710. And tho' he apprehends that an Agreement not to divulge the Propositions without the mutual Consent of both Parties, could not be to the Prejudice of the Allies; yet he believes, that in order to prevent any unreasonable Jealousies among them, even those Propositions which related to *Great Britain* in particular, were communicated to them; and that it will likewise appear, That the Propositions sign'd by Monsieur *de Torcy*, and transmitted in the Month of *April* 1711, in the said Articles mention'd, whereby it is said, 'The *French King* offered to treat with the Plenipotentiaries of *England* or *Holland* Alone, or Jointly with those of the Allies, at the Choice of *England*,' were Proposals relating only to the manner of Treating, when the Conferences should be open'd; and that Her Majesty was so far from taking upon Her to Treat Singly for the Allies, that she chose to have all the Parties admitted to the Congress, where they might have an Opportunity of Treating and Adjusting their respective Interests; that being, in her Opinion, the fairest Method of proceeding, most advantagious to the Confederates, and most likely to prevent Jealousies and Discords among them. And the said Earl saith, That he does not know that any Negotiations of peace were Contriv'd, or set on Foot, by any Person employ'd in Her Majesty's Service which were in any respect more Advantagous to *France*, than *France* had asked, or which had a tendency to give the Enemy a Power to create Misunderstandings between Her Majesty and Her Allies, or to destroy the Confidence between them.

A R T I C L E II.

In Answer to the Second Article, the said Earl saith, That he believes *M. Mesnager*, a Subject of the *French King*, did sometime in the Year 1711. with Her Majesty's Leave, come into the Kingdom of *Great Britain*, and bring with him a Letter from the said *French King* to Her late Majesty, acknowledging Her Majesty Queen of *Great Britain*, and likewise expressing a Desire to re-establish Peace with Her, and that he was furnish'd with full Power from the said *French King* for that Purpose. The said Earl further saith, That it hath been the usual and allow'd Practice in most Nations, especially in *England*, for Privy Counsellors by verbal Orders from the Sovereign to confer within the Realm with Ministers of Foreign Princes, and he conceives such Practice to be agreeable to the Laws of this Realm, and that full Powers are usually granted to Ministers who are sent abroad for the Justification of the Persons with whom they shall Treat, rather than to justify such Ministers themselves; and the said Earl denies, that he did in the Month of

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September 1711, or at any other Time secretly and unlawfully, or without Authority, confer or treat with the said *Sieur Mesnager* on the Negotiations of Peace between *Great Britain* and *France*, or that he did advise or promote the making of a private and separate Treaty or Agreement between the said Crowns; but he hath been inform'd, and doth believe, that there was a Paper filed, *The Answer to the Preliminary Demands of Great Britain more particularly*, Sign'd by *Monsi. Mesnager* only, to which was subjoin'd a Declaration of the Queen's Acceptance of those Preliminary Articles, as Conditions his Most Christian Majesty consented to grant, which were to be reduced into the usual Form of Treaties, and explain'd after the most clear and most intelligible Manner, to the common Satisfaction of *Great Britain* and *France*, and this only in Case of a General Peace: And this Declaration or some other Declaration to the like Effect, he believes might be sign'd by the Lord *Dartmouth* and Mr. Secretary *St. John*, as in the said Articles is set forth. But the said Earl must crave Leave to submit it to the Judgment of your Lordships, whether a Paper of that Sort (if any such there was) containing Offers from *France*, which were not to take Effect but in Case of a general Peace, can be called a Separate Treaty; he believes the Allies had early Knowledge and Participation of the said Proposals, from the Ministers of *Great Britain*, but denies that the Interest of *Great Britain* were thereby given up to *France*, or the Duke of *Anjou* admitted to be King of *Spain*, since in the Declaration annexed to the said Proposals he believes it is expressed, that Her Majesty might in Justice expect the Securities and Advantages mention'd in those Proposals, what Prince soever he should be to whom the Monarchy of *Spain* should be allotted; and the said Earl, recollecting as well as he can what were Her Majesty's Views at that Time, is persuaded that Her Majesty had then a Prospect, that the Monarchy of *Spain* would fall to the Share of another Prince. The said Earl denies, That by his Privy, Consent or Advice, any private or separate Treaty or Agreement, whereby the Interests of *Great Britain* were given up to *France*, or the Duke of *Anjou* was admitted to be King of *Spain*, was Agreed, Concluded or Sign'd by the said *Sieur Mesnager* on the Part of *France*, and by the said Lord *Dartmouth* and *Henry St. John*, or either of them, in Behalf of Her late Majesty; much less did the said Earl at any Time assume to himself Regal Power, or take upon him to Meet and Treat with the Enemy without Authority from Her Majesty, or do any Thing to subvert the antient and establish'd Constitutions of the Government of these Kingdoms, or introduce any illegal or dangerous Methods of transacting the Affairs of State. and the said Earl further saith, That he did never aim at, or endeavour by any separate

parate Treaty to dissolve or cancel any of those solemn Treaties, in which Her Majesty stood engag'd to Her Allies, nor was he privy to any Treaty, whereby the Queen was brought under a Dilemma, either to submit to the Dictates of France in the Progress of such Negotiation, or lose the Confidence of Her Allies.

Article 3. In Answer to the Third Article, the said Earl denies, That to disguise or carry on any private, separate or dangerous Negotiations, he did contrive or advise the preparing and forming the Sett of General Preliminaries in the Article mentioned, Entitled, *Preliminary Articles on the Part of France, to come to a General Peace*; or any other Sett of General Preliminaries of like Nature; or that the same should be Sign'd by the *Sieur Mesnager*; or that he did advise Her Majesty, that the same should be receiv'd by Her Majesty: But the said Earl hath been inform'd, That certain Articles called, *Preliminary Articles on the Part of France, to come to a General Peace*, Sign'd by the *Sieur Mesnager* only, were received by Her Majesty, and believes the same might be communicated to the Ministers of the Allies then residing in *England*, as a Ground whereon the Confederates might Treat or Negotiate concerning a General Peace; but whether the same were communicated as the only Transactions that had been on that Subject, between *Great Britain* and *France*, the said Earl knows not: But since it is term'd Impious Advice, and contrary to the Duty and Trust of a Minister of *Great Britain*, to advise the receiving such Articles; the said Earl, from his Concern for the Honour of Her late Majesty's Administration, and the future Welfare of these Kingdoms, doth submit, Whether it is Criminal for such Minister to advise the receiving Articles from a Minister of a Prince in War, containing Proposals for giving reasonable Satisfaction to *Great Britain* and all her Allies, and which being Sign'd by the Minister of that Prince only, were not intended to bind any other; and since Preliminary Articles are no essential Step towards a General Negotiation, there being, as he believes, but few Instances where any Matters of Importance have been settled before the opening of general Conferences; the said Earl does not conceive, That if any Minister of State had advis'd Her Majesty to accept the Preliminaries or Offers from *France*, said to be Sign'd by Monsieur *Mesnager* the 27th of September 1711, as the Foundation of a Treaty, he had thereby offended against any known Law, since the Proceedings upon such Preliminaries could not be more unsafe than proceeding without any at all. The said Earl denies, That any Treaty Sign'd by the Earl of *Dartmouth* or Mr. *St. John*, or either of them, on the Part of *England*, and the *Sieur Mesnager* on the Part of *France* (if any such there be) was industriously conceal'd from the Allies, Her Majesty's Council, or Parliament, by his Advice or Contrivance; or that he dissuaded Her Majesty from laying any such Treaty before Her Allies, Her Council or Parliament; or that he advis'd Her Majesty to receive the said General Preliminaries, or to communicate the same in Her Name, or by Her Authority, to the States General, as a sufficient Founda-

tion whereon to open the Conferences of Peace with *France*: The said Ear
 hath been inform'd, and doth believe, That there were certain Instructions
 prepared and sign'd by Her Majesty, and deliver'd to the Earl of *Strafford*,
 Her Majesty's Ambassador to the States-General, wherein the said Ambassador
 might be directed to represent to the Pensionary of *Holland*, and such others as
 should be appointed to confer with him in such manner as is set forth in this
 Article, or to the like Effect; but he denies, that the said Instructions were
 Prepared, Sign'd or Deliver'd by his Advice: Nevertheless the said Earl be-
 lieves, the said Instructions were well warrented by the Truth of such Facts, as
 in the said Article are set forth to be contained in those Instructions, since the
 said Earl hath had credible Information, That after Her Majesty had receiv'd
 an Account of the Sense of some Persons in *Holland*, concerning the Overtures
 made by *France*, for the setting a General Negotiation on Foot, very pressing
 Instances were made on Her Majesty's Behalf, with the Enemy, to explain
 the first Offers made by Monsieur de *Torcy* more particularly, and to form a
 distinct Project of such a Peace as they were willing to conclude; and that such
 Instances had Effect, will appear from the Preliminaries, said to be sign'd by
 Mons^r. *Mesnager*, September the 27th, 1711, wherein several Explications are
 made, and many Particulars of Moment are contain'd, which were not in the
 Propositions of Mons^r. de *Torcy*; wherefore the said Earl apprehends, That the
 Propositions said in this Article to be sent over to *France*, (if any such were
 sent) were not so General as the Propositions of Monsieur de *Torcy*, nor in any
 Respect ensnaring, or destructive to the Interests of *Great Britain* or the Allies:
 But yet the said Earl believes that Her Majesty, at the same Time she did
 communicate the said Preliminaries to the States-General, did likewise order
 Her Ambassador to acquaint them, That She judg'd those Articles did not con-
 tain such particular Concessions as *France* would probably be oblig'd to make in
 the Course of the Negotiations, or to that Effect. If therefore Her Majesty
 did, for the Good and Ease of Her People, endeavour to prevail with Her Al-
 lies to enter into a Negotiation of Peace, and did communicate the said Preli-
 minaries to them, with that View, the said Earl cannot be induc'd to believe,
 that the said General Preliminaries, communicated to the States by Her Maje-
 sty in Manner aforesaid, were calculated to Amuse or Deceive them; nor doth
 the Earl know or believe, that Her Majesty's Instructions to Her Ambassador,
 in the Particulars abovesaid, or in any other, contain'd Matters False, Prevari-
 cating or Evasive. And the said Earl must take the Liberty to affirm, That in
 the Negotiations of Peace, as well as in all other publick Transactions of State,
 as far as he was concerned, acted with the highest Regard to the Honour of Her
 Majesty, and with the utmost Zeal for the Welfare both of Her and Her Peo-
 ple, and is not conscious to himself that he ever gave any Councils, whereby
 the Truth and Sacredness which ought to constitute and accompany the In-
 structions of publick Ambassadors to Princes in Freindship and Confederacy,
 against the Common Enemy, were in any wise prostituted, or the Honour of
 Her

Her Majesty and of the Imperial Crown of these Realms, in any sort, debas'd or betray'd; and he humbly hopes no Instances can be given, wherein the Royal Hand of Her late Majesty was made the Instrument to advance the Interest of the Common Enemy.

Article 4. In answer to the Fourth Article, the said Earl doth not remember what Representations were made by Mr. Buys to Her Majesty in relation to the Propositions in the said Article mention'd, but saith, That if any Representations were made, the same were not render'd ineffectual by any Influence of the said Earl; and the said Earl doth admit, That at a Committee of Council there might be made some Declaration in Her Majesty's Name to Mr. Buys to the Effect in the said Article mention'd, but doth not admit that any such Declaration was made by him the said Earl, or by his Management or Contrivance. And the said Earl believes that what was so declar'd to the said Mr. Buys was agreeable to Truth, and to the real Sentiments and Intentions of Her Majesty, nor doth he know wherein the said Articles sign'd by Mr. Mesnager, and accepted by the Lord Dartmouth and Mr. St. John, if any such were then sign'd, were inconsistent with such Declaration, or how Her Majesty was thereby dishonour'd, or Her Allies abus'd, or that any Negotiation enter'd into with France, was either dangerous to it self; or fatal in its Consequences.

Article 5. In answer to the Fifth Article, the said Earl admits, That Her Majesty Queen ANNE did in due form of Law, and under Her Great Seal, constitute the Right Reverend John Lord Bishop of Bristol, and the Earl of Strafford Her Plenipotentiaries, with full Power to meet, treat and conclude with the Plenipotentiaries of the Confederates, and those whom the French King should on his Part depute for that Purpose, the Conditions of a good and general Peace, that should be Safe, Honourable, and as far as was possible, agreeable to the reasonable Demands of all Parties, and believes Instructions were prepar'd and deliver'd to them, wherein they were Instructed amongst other Things to the Effect in the said Article set forth; And is firmly persuaded, that when the said Plenipotentiaries were so instructed to insist, that Spain and the West-Indies should not be allotted to the House of Bourbon, no Treaty had been Negotiated and Agreed, that Spain and the West-Indies should remain in a Branch of that House; and he has reason to believe, that at the Time when the said Instructions were given to Her Majesty's said Pleni-potentiaries, there was just Ground to believe, that King Philip would be induc'd to abandon Spain and the West-Indies, and content himself with the Dominions of Savoy, and the Kingdom of Sicily; and he believes he may so far depend on his Memory (as to say) That he heard the late Queen declare, *She believ'd the Prospect King Philip had of succeeding to the Crown of France, would be an Inducement to him to be easy with that Allotment:* And it seem'd probable, that the Addition of the Dominions of Savoy to the Crown of France, in case King Philip should succeed to it, would be esteem'd by the French Court as a Thing more to be desir'd by them, than that Spain and the Indies should remain in the Possession of a younger Prince of the House of Bourbon,

Don, under the Condition of his Renouncing the Right he would have to the Crown of *France*, if the eldest Branch should fail. These seem to him to have been Her Majesty's Views at the Time when the said Instructions were given to the Bishop of *Bristol* and the Lord *Strafford*; and he therefore believes, that whoever contrived or prepared the same, did prepare them conformably to her Majesty's real Sentiments, and was far from any Thought or Design to abuse the Royal Authority, delude the States General, prejudice his Imperial Majesty or any of the Allies, or carry on the Measures of *France*; and if King *Philip* afterwards upon Information, that the then *Dauphin* was likely to live, or at the pressing Instances of the *Spaniards*, and Influence of *Spanish* Councils, or upon any other Motives, refused to accept of *Savoy* and *Sicily*, and chose rather to Renounce the *French* Monarchy; he thinks no Person who acts in the Service of the Crown can be safe, if it may be charg'd on him as a Crime, that he advised Instructions, which by interveneing Circumstances afterwards, became improper. But he the said Earl doth not admit, that he contrived or prepared the said Instructions, or was consenting or advising to the contriving or preparing of them, or prevail'd on Her Majesty to sign them; much less that he abused the Royal Authority, to the Delusion of the States-General, or intended the Prejudice of his Imperial Majesty or any of the Allies, or was engag'd to carry on the Measures of *France*, or had, when the said Instructions were Prepared, Negotiated or Agreed with the Ministers of *France*, That *Spain* and the *West-Indies* should remain in a Branch of the House of *Bourbon*, or had prevail'd on Her Majesty to be Party to any private Treaty, wherein the same was necessarily imply'd. If the Plenipotentiaries were instructed, that in case the Enemy should object, That the Second Article of the Seven, sign'd by *M. Mesnager*, implied the Duke of *Anjou* should continue on the Throne of *Spain*, to insist that those Articles were binding to *France*, but laid neither the Queen nor Her Allies under any Obligation, the said Earl does not apprehend how an Instruction to Her Majesty's Plenipotentiaries, to make a just Answer to a false Inference, that might happen to be drawn by the Enemy from the Words of such an Article, can be interpreted an entering into a Confederacy, Collusion with the Ministers of the Enemy; or that Her Majesty's Consent to such Instructions could imply any Design to impose on his Imperial Majesty or the Allies, or to conceal any Negotiations between *Great Britain* and *France*. But the said Earl is confident it will not appear by any of his Actions on the strictest Scrutiny, that he ever enter'd into any Confederacy or Collusion with the Ministers of the Enemy, or prevail'd on the Queen to give Her Consent thereto, or had any designs to impose upon his Imperial Majesty or any of the Allies, or ever was privy to any secret Negotiations or separate Treaty between *Great Britain* and *France*, whereby either in the before-mentioned, or any other Particulars, any Reproach could be brought on the Crown of these Realms, or any Treaties wherein Her Majesty was engag'd to Her Allies, were violated.

A R T I C L E

A R T I C L E VI.

In answer to the Sixth Article, the said Earl does admit, That after the Conferences of Peace between the Plenipotentiaries of the Allies, and those of the Enemy, for Negotiating a General Peace were opened, wherein he is persuaded Her Majesty and Her Ministers did act in perfect Confidence with the Allies, and to promote their Common Interest, and to obtain from the Enemy all just and reasonable Satisfaction; the Progress of the said Negotiation was delay'd by Debates, concerning the Enemy's refusal to give their Answer, in Writing, to the Demands of the Allies; but he doth not know that any of the Ministers of *Great-Britain* did, by any Encouragement or Concurrence, contribute thereunto: And if, during that time, Her Majesty thought fit to Authorize any of Her Ministers to write or negotiate upon any particular Points, relating to the Peace, directly from *England* to *France*, in order to facilitate the General Negotiation of Peace, which he the said Earl doth not admit to have been done by his Privy; yet he the said Earl doth not apprehend, that by the Constitution of the Kingdom, or any Law in being, the Queen was debar'd from doing so; or that by Constituting the said Plenipotentiaries, She had so far delagated to them Her Royal Authority, as to be disabled, without revoking their Commission, to Treat or Negotiate any Matters conducing to that End, in such other manner as She should think fit. The said Earl saith, That he did not advise, contrive, or promote any private, separate, or unjustifiable Negotiation with *France*, nor doth he know any Negotiation, relating to the Peace, was carried on, without communication thereof to the Allies. And the said Earl denies that he ever assum'd Regal Authority, or that he treated of Peace with *France* in any manner that could be liable to such imputation, or did promote the Design of the Enemy to the Destruction of the Common Cause of her Majesty, or of Her Allies, contrary to the Laws or Constitution of this Kingdom, or in violation of any of the Alliances Her Majesty stood engag'd in, or of the Assurances given by Her Majesty, or of Her Instructions to Her Plenipotentiaries; or that any Terms of Peace were, by him, at any time concerted, prejudicial to the Interest of Her Majesty, or Her Kingdoms, or Allies, or whereby the good Effects of the General Negotiation were defeated.

A R T I C L E VII.

In Answer to the Seventh Article, the said Earl saith, That he never advised Her late Majesty to accept of a Treaty with *France*, on a Supposition that the *Spanish* Monarchy should continue in the Possession of a Branch of the House of *Bourbon*; nor did he advise, or carry on any

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private or separate Negotiation with *France*, on the Subject of a Renunciation to be made by the Duke of *Anjou*, of the Right he might have to the Kingdom of *France*, and that such Renunciation should be the Security against the Re-union of the Two Kingdoms : Or that by his Councils Her Majesty was prevail'd on to accept, and finally to conclude and ratify a Treaty of Peace with *France*, wherein the said Renunciation is taken as a sufficient Expedient to prevent the Mischiefs that threatn'd all *Europe*, in case the Crowns of *France* and *Spain* should be United upon the Head of One and the same Person : Nor doth he know, that during the said Negotiation, any such Memorial, as in the said Article is set forth, was transmitted by the said Monsieur de *Torcy* to any of Her Majesty's Principal Secretaries of State : But he the said Earl doth freely acknowledge, that if he had been call'd upon to give his Opinion concerning the leaving of *Spain* and the *Indies* in the Possession of a Branch of the House of *Bourbon*, and accepting the Renunciation of his Right to the Kingdom of *France* by the Duke of *Anjou*, he doth not at present see any Reason why he might not have been of Opinion for leaving *Spain* and the *West-Indies* to the present Possessor, and accepting the Renunciation, rather than have continued the War, so burthenfome to the People, and so impracticable upon the Foot on which it then stood, especially since all Endeavours to remove him by Treaties or Force, had so long prov'd ineffectual. And in case any such Memorial, as is set forth in the said Article, was sent by any Minister of *France* to the Secretary of the late Queen, he should look upon the same as a Proof of the Earnestness of the Court of *France* to avoid such Renunciation, which might more effectually prevent all possibility of annexing the Crown of *Spain* to that of *France*. But whatever Inducements might be for such a Memorial (if any such was transmitted) the said Earl doth affirm, that he never gave any Councils, by which the Interest of the common Cause could be betray'd into the Hands of the Enemy ; nor doth he think it was possible by any Power or Influence, to engage Her Majesty to become Party with *France* in any Deceit ; but whatever Credit he at any time had by her Favour, he always used it with the utmost Sincerity for her Service, and the Good of her People.

A R T I C L E VIII.

In Answer to the Eighth Article, the said Earl believes, That Her late Majesty Queen *A N N E* did, on the 7th of *December*, in the Year of our Lord 1711, recommend it from the Throne, That Provision might be made for an early Campaign, in order to carry on the War with Vigour, and as the best way to render the Treaty of Peace Effectual ; and he does believe, that in order thereunto Supplies were granted and Magazines provided,

vided, at a great Expence, for an early Campaign, and that in pursuance thereof, her Majesty might send some General Officers to explain her Intentions to her Allies; and likewise Instructed by her General, the Duke of *Ormonde*, to declare her Resolutions of carrying on the War, and to concert with the Generals of the Allies, the proper Measures for entering upon Action; and he doth believe, that the Confederate Army was provided with all Necessaries; but whether the said Army had approach'd, or how near they had approach'd to the Enemy: Whether they had any, or what Superiority, as to the Number of Troops, or what likelihood there was, that they would have been able, either by Battle or Siege, to have better'd the Affairs of the Allies, or to have facilitated the Negotiations of Peace, the said Earl is not able to say; but it must be obvious to every one, that any Misfortune or Disaster, on the part of the Allies at such a Juncture, must have been fatal to them: And though the Divine Assistance had been very remarkable in the many Victories her Majesty's Forces had obtain'd, yet her Majesty's Piety was so great, that it is not likely she should, without the greatest Necessity, have been willing to have tempted that Providence which had been so signal in Her Favour, by hazarding the Blood of Her Subjects, at a Time when She had so near a Prospect of the Conclusion of a Peace; and the said Earl believes it might be owing to this Piety of the Queen, and Her Knowledge of some important Matters then depending, that Directions were sent to the Duke of *Ormond* (if any such were sent) to avoid engaging in any Siege or hazarding any Battle till further Orders; which he supposeth Her Majesty might do upon any Causes She thought proper, as well as the Deputies of the States, who as the said Earl had been inform'd, have often refus'd to engage in Siege or Battle, upon such Ground as they alone thought fit, when their own Generals, and the Generals of the other Allies, were of Opinion, they had a visible Advantage of the Enemy, and might engage in such a Siege or Battle, with great probability of Success: But he doth affirm, That the Ministers of *France* never represented to him, or to any others, as far as he knows, during any Negotiation, any Apprehensions they had from the Bravery and good Disposition of the Confederate Army; nor was he ever inform'd of any sure Prospect, which it is alledg'd, the Army of the Confederates then had of gaining new Conquests over the Army of *France*, or whereby they would have been enabled to have forced any better Terms of Peace than there was at that time likelihood of: But on the contrary, he has been inform'd, that the Forces of *France* were superior in Number to those of the Confederates, especially in Horse. However, the said Earl doth not admit that he did advise or consent that any Order should be dispatch'd

in her Majesty's Name, to the Duke of *Ormond*, to the aforementioned Effect; nor had he any View or Design to disappoint the Expectation of the Allies, or to give Success to any secret Negotiations with the Ministers of *France*. The said Earl likewise denies, that he did consent or advise, that Orders should be sent to the Bishop of *Bristol*, one of her Majesty's Plenipotentiaries then at *Utrecht*, to Declare to the *Dutch* Ministers, That her Majesty look'd on her Self, from their Conduct, to be then under no Obligation whatsoever to them; he doth not know what Alarm the Allies might take, or what Representations they made to the Bishop of *Bristol* of their Dissatisfaction, or Consternation, but doubts not the said Bishop would readily represent what they desir'd, tho' such Representation made by his Lordship, (if any such there was) fell not under the Knowledge of the said Earl, nor doth he admit that any Application of that kind was made to him. And in case the States-General made such Address directly to her Majesty, by a Letter of the 5th Day of *June*, as in the said Article is set forth; he the said Earl not being acquainted therewith, could neither advise her Majesty to harken to the Instances therein made, nor to disregard, or to reject the same. He saith, He never enter'd into Measures for the Advancement of the Interest of the common Enemy, or Countenanced, Encourag'd, Advis'd, or Promoted any Negotiation with *France* without Participation of the Allies, or contrary to her Majesty's Engagement, or to the Ruin of the common Cause; nor is he conscious to himself, that he ever gave any Councils, by which the Progress of the victorious Arms of the Confederates was stopped, or any Opportunity lost for conquering the Enemy, or which had any Tendency to destroy the Confidence between her Majesty and Her Allies, or make the *French* King Master of the Negotiations of Peace, or which could put the Affairs of *Europe* into his Hands.

ARTICLE IX.

In Answer to the Ninth Article, The said Earl denies he was Privy, or Consenting to any Concert with the Ministers of *France* for the separating the Troops in Her Majesty's Pay from the rest of the Confederate Army; and not being Privy to any such Concert, he hopes it will not be imputed to him as any want of Duty, that he did not advise against such a Proceeding. He denies also, that he ever entertain'd the least Design of imposing upon the Allies any Necessity of submitting to the Terms of *France*, or of leaving the Confederate Army to the Mercy of the Enemy, or that he did Consent or Advise Her Majesty, that the Duke of *Ormond*, and the Troops in Her Majesty's Pay, or such of them as would obey his Orders, should separate themselves from the Army of the Confederates. The said

said Earl hath been informed, and believes it to be true, that the Imperial General, and some other Generals, did propose to the Duke of *Ormond* in *June* or *July*, in the Year 1712. to Decamp from the Ground where they lay, and to proceed towards *Landrecy*, in order to form the Siege of that Place, and that the Duke of *Ormond* thought it not proper to consent thereto, and gave Notice to the said Generals, that if they decamped, they must not expect him to follow them : And the said Earl believes Instances may be given where Generals of other Potentates in the Alliance have refused to comply with what has been proposed to them by Her late Majesty's General. The said Earl hath likewise heard, that notwithstanding such Notice from the Duke of *Ormond*, the said Generals separated themselves and their Forces from the said Duke, and marched towards *Landrecy* without him, and that the said Duke continued for some time in his former Camp, after such Separation. And that the Generals of the Auxiliary Troops, paid by her Majesty, altho' requir'd by the said Duke of *Ormond*, under whose Command they then were, to continue with him, and to obey his Orders, refus'd so to do. He the said supposes it might proceed from Her Majesty's Resentment of that Instance of Disobedience in the Auxiliary Troops to the Commands of Her General, that She did think fit immediately to pay the Arrears of those Forces, which had so obstinately withdrawn themselves from Her General, and marched without him towards *Landrecy*, as not apprehending her self obliged by any Conventions, or the Provision of any Act of Parliament, so to do. But whatever might be the Causes or Occasions of Her Majesty's Resentment, the said Earl saith, That he being in the Office of High Treasurer under Her Majesty, could not but by the Duty of his Place, issue out any Monies without a proper Warrant or Authority from her Majesty ; and denies that ever received any Warrant or Authority from Her Majesty, for issuing any Sum or Sums of Money, for, or towards the Pay or Subsidies, on account of the said Foreign Troops, who had so separated, without which, the issuing or directing any Monies for the Payment of them had been a Violation of his Duty. And the said Earl denies, that he did at any time refuse or put a stop to any such Pay or Subsidies ; but on the contrary, when the Ministers of the Princes to whom those Forces belong'd, did apply for the Payment of the said Troops, the said Earl desired them to make Application to Her Majesty, for the necessary Warrants in Order thereunto. And as the said Earl had no Notice of any Separation intended between Her Majesty's Forces and those of the Allies, before the same was made, so he absolutely denies, that by his Advice or Council, or with his Privy, any such Separation was made : And humbly apprehends, That he ought not in Justice to be charged with any

Consequences of it. He believes, that the Forces of some of the Allies were engaged in the unfortunate Action of *Denain*, and that the Siege of *Landrecy* were rais'd, and the Towns of *Quesnoy*, *Bouchain*, and *Douay* were sometime after retaken by the *French Army*: But whether those Disasters might not have been prevented, by a Compliance with the Measures her Majesty had taken for the common Good, the said Earl submits to your Lordships.

A R T I C L E X.

In Answer to the Tenth Article, the said Earl denies, that he did carry on, or concert with the Ministers of *France*, a Private or Separate Negotiation for a general Suspension by Sea and Land, between *Great-Britain* and *France*; or that he did advise Her Majesty to send over *Henry Viscount Bolingbroke* to the Court of *France*, with Powers to settle such Suspension; but hath been informed, and believes it may be true, That about the 19th of *August*, N. S. 1712. a Suspension of Arms was agreed on in *France*, by the said Viscount *Bolingbroke* on her Majesty's Part, for four Months; but whether such Agreement was made without the Knowledge or Participation of her Majesty's Allies, or how far the Terms of Peace were than settled with *France*; either for *Great-Britain*, or the Allies, the said Earl is not able to set forth: But from the Informations he hath received of that Affair, believes it will appear, That the said Suspension was a Continuation only of a former Agreement for a Cessation of Arms, which had been not only communicated to the Allies, but into which they had been Invited; and believes, her Majesty might be induced to desire such Cessation, as what was usual among Princes and States in War, during Negotiations of Peace, by which means the *British Merchants* enjoy'd a free Trade, and had an opportunity of carrying the Merchandizes of other Countries to several parts of *Europe*, as the *Dutch* had done during the War; and therefore the said Earl doth not conceive that her Majesty, by the said Suspension, did in the least intend the Violation of any Treaties between Her and her Allies, or to deprive them of any Assistance to which they were Entitled, or to Expose them to the Insults of the common Enemy: Nor doth he discern how these Consequences could ensue, without the Default of the Allies themselves; much less how the Ties of Union and Friendship between her Majesty and them, were cut asunder, or her Majesty's Person or Government, or the Safety of her Kingdoms, or the Protestant Succession were expos'd thereby. But the said Earl assures himself, That he shall never stand Chargeable with any Consequences of such Suspension, which he never advis'd; nor did he the said Earl ever entertain the least Thought or Design of occasioning

sioning the Destruction of the Common Cause of *Europe*, or hindring her Majesty from resuming the War against *France*, in conjunction with her Allies, if it had been so thought fit, or of weakning the Union between her Majesty and Them.

ARTICLE XI.

In answer to the Eleventh Article, the said Earl saith, he believes it to be true, That in or about the Month of *September* or *October* 1712, the States-General were in possession of the Town and Fortres of *Tournay*; and that her Majesty, in Her Instructions of *December* the 23d, 1711, to Her Plenipotentiaries at *Utrecht*, did direct them to insist with the Plenipotentiaries of *France*, in the General Congress, that towards forming a Barrier for the States-General, *Tournay* should remain to the States; and doth believe the *French* King did, at one time, incline thereunto: But doth not know that her Majesty, in her Speech, in the said Article mentioned, did declare her Self as in the said Article is set forth. The said Earl admits, That until and after the Months of *September* and *October* 1711, there was open War between her late Majesty and the *French* King; and that during such War, the *French* King and his Subjects were Enemies to the late Queen; but the said Earl hath been inform'd, and believes, That full Powers were given by her Majesty, and the States-General of the United Provinces, to their respective Ministers, and by the *French* King to his Ministers, to Negotiate and Treat of Peace between her Majesty, and the States-General, and the said *French* King; upon which Negotiations a Peace was afterwards concluded between them; during which Negotiations he hath heard, That the *French* King did insist upon the Yielding up the Town and Fortres of *Tournay*, by the States, to him; and the said States-General desir'd her Majesty's Interposition with the *French* King on their Behalf; and that at such request, her Majesty interpos'd Her best Offices on behalf of the States-General, and did at last prevail, that the said Town and Fortres of *Tournay* should be, and he believes the same is continued to the States-General, as part of their Barrier. But the said Earl absolutely denies, That he did design to give Aid, or Succour, or to Adhere to the *French* King; or, That he did in or about the Month of *October* 1712, or at any other time, during the said War, Aid, Help, or Assist or Adhere to the said *French* King; or, That he did ever Council or Advise the said Enemy in what Manner, or by what Methods the said Town and Fortres of *Tournay*, or either of them, might be gained from the States General to the *French* King, in Manner and Form as in the said Article is charg'd. On the contrary, he the said Earl did use his best Offices to preserve the said Town
and

and Fortrefs of *Tournay* to the States-General. But the ſaid Earl ſaith, That during the Negotiations of the late Peace, he had the Honour to be One of Her ſaid late Majeſty's Privy-Council; and whatſoever Council or Advice he gave, relating to any Terms of the ſaid Peace, he acted therein as a Privy-Counſellor and Miniſter of State, and no otherwiſe: And doth inſiſt, That for any Privy-Counſellor, or Miniſter of State, during the Negotiations of Peace, to Treat, Advise, or Negotiate, concerning the Yielding or Giving-up any Town, Province or Dominion, upon the concluſion of the Peace, as part of the Terms and Conditions of ſuch Peace, is not High Treason by Law of this Realm; and that ſuch Conſtruction might hereafter deprive the Crown of the Advice and Aſſiſtance of ſeveral Members of the Privy-Council, in Matters of the greateſt Importance, by deterring them from giving ſuch Advice as, by their Oaths, and the Duty of their Place, they are oblig'd to do; would overthrow all Means of reſtoring Amity between Princes, and render the Law, in Caſe of High Treason, uncertain, which by reaſon of its being moſt Penal, ought to be moſt Plain, and would be highly Dangerous and Deſtructive to the Lives and Liberties of the Subject.

A R T I C L E XII.

In answer to the Twelfth Article, the ſaid Earl not admitting that Her late Majeſty Queen *ANNE*, ſtood engag'd by Treaties in manner as in the ſaid Article is alledg'd; but referring himſelf to the Treaties, when they ſhall be produc'd, for Answer, denies, That he did, in any of the Years 1710, 1711 and 1712, or at any other time Aid, Help, Aſſiſt, or Adhere to the Duke of *Anjou*, in the ſaid Article nam'd, or Advise or Council any of the Enemies of her ſaid late Majeſty, or Concert with any of them, or promote the Yielding and Giving-up of *Spain* and the *West-Indies*, or any part thereof to the ſaid Duke of *Anjou*, in Manner and Form, as in the ſaid Article is alledg'd. And the ſaid Earl ſaith, as in Answer to the Eleventh Article he hath already ſaid, That during the Negotiations of the late Peace, he had the Honour to be One of her ſaid late Majeſty's Privy-Council, and whatever Council or Advice he gave, relating to any Terms of the ſaid Peace, he acted therein as a Privy-Counſellor, and Miniſter of State, and no otherwiſe; and Inſiſts as in his Answer to the Eleventh Article he has Inſiſted.

A R T I C L E XIII.

In Answer to the Thirteenth Article, The ſaid Earl admits that the flourishing Condition of Trade and Navigation contributes much to the Riches, Power and Strength of theſe Kingdoms; and believes that her late

late Majesty had a just Regard thereto, and a sincere desire to obtain some Advantages therein for her People ; and did make the several Declarations from the Throne, set forth in this Article : And that both Houses of Parliament did from time to time express their grateful Acknowledgements to her Majesty, for her great Care and Concern for the Welfare of her People ; and believes her Majesty might think it reasonable, considering the Share and Burthen she and her People had sustained in the War, that *France* should in the first place adjust the Interests of *Great Britain*, which were to be secur'd on the Conclusion of a General Peace : But the said Earl doth not know, or believe, that at the setting on foot, or in the Progress of any Negotiation, between the Ministers of *Great Britain* and *France*, it was laid down as a Principle, that *France* should in the first place consent to adjust the Interests of *Great Britain*, to the intent that the Ministers of *Great Britain* might thereby be enabled to engage the Queen to make the Conclusion of the Peace easy to *France* ; nor doth he know that any Concessions were made by the Ministers of *Great Britain* with intent to promote the Interests of *France* against the Allies ; or that any Measures were entred into, or concerted between them, in order to strengthen the Hands of the *French*, or to enable them to impose the Terms of a general Peace. And the said Earl doth absolutely deny, That he was engag'd in Concert with *France*, in any Negotiations destructive to his Country, or that he ever had the least Imagination or Thought tending that way, or to the Sacrificing the Commerce of *Great Britain*, to the Aggrandizement of *France* ; but on the contrary, he hath always had the most real and sincere Desires, to secure and advance the Commerce of *Great Britain*, and to preserve his Country, in whose Service he hath been always ready to Sacrifice himself, and every private Interest whatsoever. And the said Earl is not conscious to himself of any want of Duty, either in not insisting upon, or not procuring the most certain Securities that could be obtained for the Safety and Advantage of the Commerce of these Kingdoms. And the said Earl doth not admit, that he did advise her late Majesty, that any Proposition should be sent by Mr. Prior, to *France* ; or that any private or separate Treaty, or the Preliminary Articles, which are said to be Sign'd the 27th of September 1711, should be Signed. But the said Earl hath been inform'd, and believes, that in a Paper intitled, *The Answer of France to the Demands of Great Britain*, more particularly, it is said, *That the intire restitution of Newfoundland, and of the Bay and Streights of Hudson, was demanded for the English* : And that the *French King's Answer* was, *That the Discussion of that Article should be referred to the General Conferences of the Peace, provided the Liberty of fishing and drying of*

Codfish upon the Isle of Newfoundland, should be reserved to the French. And the said Earl conceives that Paper not conclusive, but was to be the Subject of future Conferences, wherein the whole Matter might be entirely consider'd; And consequently, that the entering into Conferences on that Paper was not the yielding to the *French* the Liberty of fishing, and drying Fish on *Newfoundland*, which they insisted on. And the said Earl denies, That he advised the Demands for *Great Britain*, in Point of Commerce, should be made in loose, general, or insufficient Terms; or that he advised the Liberties insisted on by the *French*, should be given up to *France*, as in the said Article is alledg'd: And he believes, that when it is consider'd what Advantages were likely to ensue to the Commerce of *Great Britain*, by the *Assiento* Contract, and the liberty of Trading to the *Spanish West-Indies*, by the Cession of *Accadia*, the Bay and Streights of *Hudson*, the Island of *St. Christopher*, *Newfoundland*, the Island of *St. Peter*, with other adjacent Islands; by the Demolition of *Dunkirk*, and the Cession of *Port-Mahon* and *Gibraltar*, it will not be thought the Commerce of *Great Britain* was neglected by her Majesty, in the late Treaty of Peace. And as the said Earl doth not know that *France* was at that time Master of the Negotiations, so he denies that he did ingage her Majesty in any private Treaties with *France*, without Security for the Commerce of *Great Britain*; or that he did contrive, with any of the Ministers of *France*, to keep in suspense any Matters that concern'd the said Commerce, or that he was any ways instrumental to the preventing any Advantages of the said Commerce from being settled, or that he endeavour'd to elude any thing that had been agreed on in any Negotiation for the Benefit of *Great Britain*. And altho' the said Earl doth not admit, that he advised the Ninth Article of the Treaty of Commerce with *France*, yet he begs leave to observe, that nothing is positively stipulated in that Article, but the whole is conditional, and left to be determin'd by the Wisdom of Parliament; and hopes it will never be thought an Act of Treachery, to refer an Article of any Treaty to the Judgment and Consideration of Parliament, whatever Judgment the Parliament shall think fit to make thereon. And the said Earl denies, that he advised her Majesty to agree with *France*, that the Subjects of *France* should have Liberty of Fishing, and Drying Fish on *Newfoundland*; but the said Earl believes, that what her late Majesty agreed with *France*, relating thereto, will not seem unreasonable, if it be consider'd, that the *French* long ago claim'd Right to, and were in Possession of great part of *Newfoundland*; and that they were allow'd to continue in Possession thereof by the Crown of *England*, in a Treaty made at *Whitehall*, in the Year 1686; and in another Treaty made at *Ryswick*

Ryſwick, in the Year 1697. And the ſaid Earl doth not know that ſuch Agreement of her Maſteſty is contrary to the expreſs Proviſion of any Act of Parliament, ſince he preſumes the Act made in the 10th and 11th Years of the Reign of King *William* the Third, intituled, *An Act to encourage the Trade to Newfoundland*, cannot reaſonably be intended, or conſtrued to extend to any part of the Iſland, other than what was at the time of making that Act in the Poſſeſſion of the *Engliſh*. And the ſaid Earl is inform'd, That at that Time the part of *Newfoundland*, where the Subjects of *France* are, by the Treaty of *Utrecht* allow'd the Liberty of Fiſhing, and Drying Fiſh, was not in the Poſſeſſion of the *Engliſh*. The ſaid Earl denies, that he adviſed her Maſteſty to make a Ceſſion to *France*, of the Iſle of *Cape Breton*; or that he adviſed her Maſteſty to Conſent, that what is Agreed in the Treaty of *Utrecht*, concerning the Fiſhery of *Newfoundland*, or *Cape Breton* ſhould be made an Article of that Treaty: However, the ſaid Earl doth not know that *Cape Breton* was part of the Territories of the Crown of *Great Britain*; nor does he apprehend, that her Maſteſty, who in her Speech from the Throne, declar'd, *That France had Conſented to make an abſolute Ceſſion of Anapolis, with the reſt of Nova Scotia, or Accadia*, ſhould be underſtood to ſpeak of *Cape Breton*, which is no part of that Continent, but an Iſland diſtinct from it, The ſaid Earl further ſaith, He conceives, that the only Advantages in Trade, ſtipulated for *Great Britain*, did not depend on Conditions to be made good by Act of Parliament; on the contrary, he doubts not to make it appear, that many Advantages in Trade were ſtipulated for *Great Britain* in the late Treaties of Peace and Commerce, which have been enjoy'd by the Subjects of *Great Britain*, ſince the Concluſion of the ſaid Treaties, notwithstanding the Parliament had not thought fit to make an Act to enforce the Ninth Article of the Treaty of Commerce with *France*. And the ſaid Earl denies, that by his Councils, the good Intentions of her Sacred Maſteſty, to have obtain'd for her People, advantageous Terms of Commerce were fruſtrated, or the Trade or Manufactures of *Great Britain* rendred precarious, or at the Mercy of the Enemy; or any beneficial Branch of Trade yielded up to the Subjects of *France*. And as the ſaid Earl diſowns the being concern'd in any Violation of Treaties, or in carrying on the Meaſures of *France*, nor in any Negotiation, which could terminate in the Sacrifice of the Commerce of *Great Britain* to *France*; ſo he obſerves, with great Satisfaction, the flouriſhing Condition of the Trade and Navigation of theſe Kingdoms, ſince the Concluſion, and by Means of the late Peace, in the great Encreaſe of the Number and Tonnage of Shipping, of the Exportation of the Woollen Manufactures, the Fiſh, and other Product of this Kingdom; in conſequence whereof the Customs have been

greatly

greatly advanc'd, near Three Millions of Gold and Silver has been Coin'd, and the Exchange has all along been in favour of *England*, to and from all Parts of *Europe*.

A R T I C L E X I V .

In Answer to the Fourteenth Article, The said Earl doth not admit that he form'd any Project, or Design, for disposing the Kingdom of *Sicily* to the Duke of *Savoy*, from the House of *Austria*; or that he did advise her Majesty to give any such Instructions to *Henry Viscount Bolingbroke*, as in the said Article mention'd, or to consent to any Treaty, wherein a Cession is made of the said Kingdom to his Royal Highness, without any Concurrence or Participation of his Imperial Majesty; nor doth he admit that her Majesty was prevail'd on, by his Advice, to assist his said Royal Highness with her Fleet, against the Emperor, in order to obtain the Possession of that Kingdom. But in Justification of her Majesty's Proceedings, in relation to the said Kingdom, the said Earl doth beg leave to observe, that by the Grand Alliance, ' It was agreed, among other things, that the Confederates should use their utmost Endeavours, ' to recover the Kingdom of *Sicily* out of the Hands of the Enemy; and ' that the principal Ends for endeavouring the recovery of *Sicily* were, ' That his Imperial Majesty might have a reasonable Satisfaction for his ' Pretension to the *Spanish* Monarchy; and that the Trade and Navigati- ' on of the Subjects of *Great Britain* and *Holland* might thereby be bet- ' ter secur'd. Since therefore the Empire and Hereditary Countries of *Austria* were now fallen upon *Charles* the Third, who at the time of that Treaty was a younger Branch of that House: Since several Towns in the *French Flanders*, which were not in the Possession of King *Charles* the Second at the time of his Death, together with *Spanish Flanders*, *Milan* and *Naples*, might seem a reasonable Satisfaction for his Imperial Majesty's Pretensions to the *Spanish* Succession: And since the Trade and Navigation of the Subjects of *Great Britain* and *Holland* would be as effectually secur'd, by the Disposition of the Kingdom of *Sicily* to the Duke of *Savoy*, as if the said Kingdom had fallen to the Share of the Emperor: And greater Difficulties would be likely to arise, in obtaining the Disposition thereof to the House of *Austria*, than to that Duke, in as much as King *Philip* might be more easily induc'd to yield it to the Duke of *Savoy*, than to so Potent a Prince as the Emperor; and there were Grounds to believe that all, or most of the Princes and States of *Italy*, were so apprehensive of the growing Power of the House of *Austria* in *Italy*, that they would suffer any Extremities rather than submit that *Sicily*, together with *Milan* and *Naples*, should be in the Hands of the Emperor, the said Earl doth

doth not discern how any Project to dispose of the said Kingdom to that Duke could be thought unjust, dishonourable or pernicious, or any Act of Injustice to his Imperial Majesty, or Violation of the Grand Alliance : Nor doth the said Earl remember in what respect it was contradictory to any Declaration of her Majesty, or the Instructions she had given her Plenipotentiaries : And in case her Majesty thought fit afterwards to employ any part of her Fleet to assist that Duke, her good and faithful Ally, to take Possession of that Kingdom from the Enemy, in Consideration of the said Duke's steady Adherence to the Confederacy, and great Sufferings by such Adherence ; he the said Earl is not able to discover why such Assistance might not be given to the said Duke, as well as to any other of her Allies whatsoever. And since it is allow'd by this Article, that the then Duke of *Savoy* never made any Application, in order to obtain the said Kingdom for himself, it seems an Evidence at least, that the Person or Persons who advis'd the late Queen to agree to such Allotment, did not act upon any private Interest, or had any other View than the Preservation of a Ballance of Power in *Europe*, and the Security of the Trade and Navigation of the Subjects of *Great Britain* and *Holland* ; and cannot reasonably be thought, upon a fair and candid Interpretation, to have been guilty of betraying the National Faith, or Honour of the Crown, or employing the Naval Power of these Kingdoms, or the Supplies granted by Parliament, against any Ally of this Kingdom.

A R T I C L E XV.

In Answer to the Fifteenth Article, the said Earl saith, he is and always was of Opinion, That the Word of the Sovereign is Sacred, and that all Communications from the Throne to Parliament, ought to be True, and that it becomes all Ministers of State, as far as in them lies, to maintain the Honour of the Crown, in such Cases, with the utmost Exactness ; nor doth the said Earl know, That he hath, at any time, been defective in his Duty, in this Particular, or ever took upon himself any Arbitrary or Unwarrantable Authority, much less the chief Direction and Influence in her Majesty's Councils : Nor did he ever prostitute the Honour of the Crown or Dignity of Parliament, by misrepresenting any part of the late Negotiations of Peace, to deceive either her Majesty, her Allies, her Parliament, or her People ; nor did he ever Prepare, Form, or Concert, or Advise her Majesty to make any Speech or Declaration, from the Throne, to her Parliament, that was not conformable to Truth. He believes her Majesty might make several Speeches, from the Throne, to her Parliament, at the several Times in the said Article mentioned, to which the said Earl refers ; and particularly, That her Majesty did, on the 7th Day of *December 1711*, declare, That her Allies, especially the *States-General*, had by their ready Compliance for opening the Treaty of

a General Peace, express'd their Confidence in Her; but the said Earl not admitting there were such Representations as suggested in this Article, begs Leave, in Vindication of the Honour of his Royal Mistress, who was a Princess of strict Piety and Truth, to observe, That the States-General sent over Monsieur *Buys* to her Majesty, with Letters full of Assurances of their Respect for Her Person, and their Resolutions not to separate themselves from Her; and likewise signify'd by him, to Her Ministers, their readiness to concur with her Majesty. And the said Monsieur *Buys*, immediately upon his arrival at *London*, deliver'd Passports for the *French* Ministers to come to *Utrecht*; and at a meeting of several Lords of the Council, shew'd his Approbation of sending Circular Letters to invite the rest of the Allies to the General Congress: And the said Monsieur *Buys* exhibited full Powers for Preparing and Signing a new Treaty, whereby her Majesty and the States should be mutually engag'd to each other in making War and Peace, to Guarantee the Peace when made, and to Invite the rest of the Allies into such Guarranty; all which Matters and Transactions being previous to the 7th of *December* 1711, her Majesty might justly regard the aforesaid authentick Acts and Assurances, as greater Proofs of the Confidence the States had in Her, and of their readiness to concur with Her, than any Representations or Reports before that time; and that the said Declaration of her Majesty from the Throne, was founded upon the strictest Truth. And the said Earl believes, that every one who impartially considers the Steps taken in the late Negotiations of Peace, the length of the Treaty, the several Letters from One of her Majesty's Principal Secretaries of State to Her Plenipotentiaries at *Utrecht*, the Ratification of the Engagement Sign'd by Her Ministers and Monsieur *Buys*, the 18th of *December* 1711, and Her exhorting the States to Ratify the same; Her pressing Instances to the Princes and States of the Empire, and the many other Acts which were done by her Majesty's Orders, during that Transaction, for the Service and Satisfaction of Her Allies, will readily acknowledge, That her Majesty did Her utmost to procure for Her Allies, and in particular for his Imperial Majesty, all reasonable Satisfaction; and to Unite with them, in the strictest Engagements, to render the Peace Secure and Lasting, agreeable to Her Speech of the said 7th Day of *December*, and Her Message of the 17th of *January* following, in this Article mentioned: And if by any extraordinary Demands, or groundless Jealousies of any of the Allies, or other Accidents, her Majesty was not able to obtain for them all the Advantages She desir'd, this will not derogate from the Truth and Sincerity of her Majesty's Expressions. And it is evident her Majesty did procure them so great Satisfaction, that the Allies did all Sign the

Peace

Peace at the same time with her Majesty, excepting only the Emperor, and even his Interests were so far adjusted, that what remained in Dispute, was not thought of Consequence sufficient to delay so Great and Good a Work. And it is well known the Emperors of *Germany* have frequently declin'd signing their Treaties of Peace at the same time with their Allies: But that her Majesty was induc'd, by any Influence of the said Earl, to enter into any Negotiation with *France*, exclusive of Her Allies; or that the said Earl carry'd on any such Negotiation; or that the Interest of the said Allies, or in particular of the Emperor, were, by any Practices of his, given up to *France*, he utterly denies. And when it is consider'd, That much *British* Blood and Treasure had been spent to recover *Spain* and the *West-Indies* from the House of *Bourbon*, that an Expensive War had, for many Years continu'd, which Her Majesty still supply'd with new Recruits and redoubled Expence; That Her Armies, and those of the Allies, had been beaten in *Spain*; That Prince *Eugene* had declar'd, That Forty thousand Men, and four Millions of Crowns *per Annum*, would be necessary for carrying on that War, and that his Master could supply no more than a Fourth Part of that Charge; That it was found by long Experience, how averie the People of *Spain* in general were to submit themselves to the House of *Austria*; That her Majesty discerned the Charge of renewing the War in *Spain*, would be a Burthen too great for Her Subjects, and that there was little probability of its being Successful; That the Hereditary Countries were then, by the Death of the Emperor *Joseph*, fallen to King *Charles*, who was soon after chosen Emperor (by which Event the Interest of the Princes and States of *Europe* were changed); it cannot be doubted but that Her late Majesty had, at the time when she made the aforesaid Declaration, done her utmost to recover *Spain* and the *West Indies* by force of Arms: And the most She could do afterwards, was by way of Negotiation, wherein She insisted with that Earnestness on King *Philip's* quitting *Spain*, that *France* comply'd with her Majesty's Proposals: But when King *Philip* could not be prevail'd on to give up *Spain*, her Majesty thought his Renunciation of the Crown of *France*, as Circumstances then stood, the most practicable, if not the only Method left to prevent the Union of these two Monarchies. But the said Earl doth not think it probable, That the leaving *Spain* and the *West-Indies* to the House of *Bourbon*, was the Foundation of the Preliminary Articles sign'd by Monsieur *Mesnager*, and of the Declaration annexed, which had been sign'd by the Lord *Dartmouth* and Mr. *St. John*, with her Majesty's Consent (and which the said Earl supposes, is what is called the private Treaty in this Article) since he believes it was then thought more likely, that the Crown of

Spain

Spain might fall to some other Prince. And the said Earl doth not observe, how her Majesty can be charg'd with uttering any Falsity in Her Message of the 17th Day of *January*, wherein She takes notice, *How groundless the Reports were, that had been spread of a Separate Peace being Treated, for which Report there was not then, nor at any other time, the least Foundation; since only some few Points were adjusted, relating to the particular Interest of Her Own Kingdoms, and even those were to have no Effect but upon the conclusion of a General Peace, and were likewise, before such Conclusion, communicated to the Allies.* And the said Earl denies, that thenceforth, or at any time, there were carried on, by him, any Separate Measures with the Ministers of *France*; nor doth he conceive, that the Proposal about the Renunciation, was merely Speculative, but that it was of such a Nature as would execute it self, and keep the Crowns of *France* and *Spain* more effectually divided than ever; if it be consider'd, That it did not consist only in a Renunciation to be made by *Philip*, then in the Possession of the Crown of *Spain*, of his contingent Right to that of *France*; but that there was a Title to the Crown of *France* thereby given to the Duke of *Orleans*, and after him to the rest of the Princes of the House of *Bourbon*, who could not be presumed to want the Will, nor would be likely to want the Power, to take Possession of the Crown of *France*, by Virtue of such Title, in opposition to a Prince at such a distance, and who had solemnly renounced all his Pretensions to it. Nor can the said Earl think, the Declaration of any Minister of *France*, against such Expedient (if any such was made) a sufficient Ground for her Majesty to decline it. The said Earl therefore, must beg leave to repeat, that he is not able to discover, from any thing that appears in those Speeches, that in the Particulars aforementioned, or any other the essential Points relating to Peace and Commerce, or which concerned the Interests either of Her Allies or *Great Britain*, were misrepresented by her Majesty; nor doth he know, or believe, That any Instance can be given, wherein he abus'd the Favour of his Royal Mistress, to whom he did always bear and pay the most sincere Veneration and Duty; or wherein he did mislead Her Parliament into any groundless or fatal Resolution, or prevented their Advice to Her Majesty, or obtained their Approbation to any dangerous Practices, or whereby her Majesty could be ever depriv'd of the Confidence of Her Allies, or expos'd to Contempt.

ARTICLE XVI.

In answer to the Sixteenth Article, the said Earl doth insist, That by the Laws and Constitution of this Realm, it is the undoubted Right and Prerogative of the Sovereign, who is the Fountain of Honour, to Create Peers of this Realm, as well in time of Parliament, as when there

there is no Parliament Sitting, or in Being; and that the Exercise of this Branch of the Prerogative is declared in the Form or Preamble of all Patents of Honour, to proceed *ex mero motu*, as an Act of mere Grace and Favour; and that such Acts are not done, as many other Acts of a publick Nature are, by and with the Advice of the Privy Council; or as Acts of Pardon usually run, upon a favourable Representation of several Circumstances, or upon Reports from the Attorney General, or other Officers; That such Acts are lawful or expedient, or the Safety or Advantage of the Crown; but flows entirely from the Beneficent and Gracious Disposition of the Sovereign. He farther says, That neither the Warrants for Patents of Honour, the Bills or other Engrossments of such Patents are, at any time communicated to the Council, or the Treasury, as several other Patents are; and therefore the said Earl, either as High Treasurer or Privy Councillor, could not have any Knowledge of the same: Nevertheless, if Her late Sacred Majesty had thought fit to acquaint him with Her most gracious Intentions of Creating any Number of Peers of this Realm, and had asked his Opinion, Whether the Persons whom She then intended to Create, were Persons proper to have been promoted to that Dignity? he does believe he should have highly approv'd Her Majesty's Choice; and does not apprehend, that in so doing, he had been guilty of any Breach of his Duty or Violation of the Trust in him repos'd; since they were all Persons of Honour and distinguish'd Merit, and the Peerage thereby was not greatly encreas'd, considering some of those Created would have been Peers by Descent, and many noble Families were then lately extinct: And the said Earl believes, many Instances may be given, where this Prerogative hath been exercis'd by former Princes of this Realm in as extensive a manner; and particularly in the Reigns of King Henry the Eighth, King James the First, and his late Majesty King William. The said Earl begs Leave to add, That in the whole course of his Life, he hath always lov'd the Establish'd Constitution, and in his private Capacity, as well as in all publick Stations, when he had the Honour to be employ'd, has ever done his utmost to preserve it, and shall always continue so to do.

Answer to the First Additional Article.

In answer to the further Articles of Impeachment exhibited against the said Earl. As to the First of those Articles he saith, That he believes, in or about the Month of January 1710, an Expedition was projected, for making a Conquest of the City *Quibek*, on the River of St. Lawrence, Canada, or other Possessions of the French King in North America; but denies he advis'd Her Majesty either to consent to

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the making such Expedition, or to give Orders for detaching any Battalions of the Forces in her Majesty's Service in *Flanders*, or to send any such Battalions, or any Squadron of Men of War on the said Enterprize ; but having heard that the said Project, or some Expedition of the like Nature, had been some time before consider'd in a Committee of Council, and afterwards laid aside for that time, and not being fully apprized of the whole Project, nor so well vers'd in the Affairs of that part of the World as others, who had more Opportunity of knowing them ; and least the Expedition might not at that time prove so seasonable or advantageous as others of better Knowledge in those Matters than himself did expect, he did all that he apprehends his Duty requir'd to prevent the putting the same in Execution, and expressed his Concern at it to some Persons about the Queen. And having so far shewn his Opinion of the said Design at that time, believes it would not have been thought proper for him to have appear'd at the Meetings, where the Methods only of carrying on the Expedition were to be adjusted, of which Meetings there had been but few, before a Misfortune befel him, which confined him to his Bed. But the said Earl denies, that he knew the said Expedition was dangerous or destructive, nor did he hear that it was laid aside formerly by a Committee of Council, as Dangerous or Impracticable, but only as improper in the Circumstances of Affairs *at that time* ; nor doth the said Earl know or believe the said Expedition was set on foot with any design to promote the Interest of the *French* King, or to weaken the Confederate Army in *Flanders*, or to dissipate the Naval Forces of this Kingdom ; and when others of Her Majesty's Council, better acquainted with that Affair, did judge it to be proper and practicable, he did think it became him, upon the Strength of his own single Judgment, further to oppose an Expedition, which if it had succeeded, most certainly would have given a great and sensible Blow to the Settlements and Trade of *France* in that part of the World. And the said Earl, with good Reason, is persuaded your Lordships will not think it unfit that Her Majesty should take the Opinion of those who better understood Affairs of that Nature ; or, that your Lordships can judge the said Earl in that Respect to have been any way wanting in his Duty to Her Majesty ; but hopes it will be rather an Evidence of his Fidelity to the Queen and his Country, that he so far discouraged what in his own Judgment he was diffident of ; however he is satisfied, that those of Her Majesty's Council who did approve the Expedition, acted therein with a sincere Desire for the publick Good, notwithstanding the ill Success it was attended with, which might chiefly be owing to Delays by contrary Winds, and other unfore

foreseen Accidents. And he doth not believe, that Her Majesty's Allies did suffer any Prejudice, or the common Enemy receive any Advantage by the detaching of Forces from *Flanders*, to serve on this Enterprize: and is inform'd, that to prevent any such Danger, Her Majesty's General, who commanded at that time in *Flanders*, had Orders for providing other Forces in their Place, if he judged it necessary. And the said Earl doth acknowledge, that the Sum of Twenty eight thousand Pounds, or thereabouts, was demanded at the Treasury about *June 1711*. on Account of Arms, Accoutrements, Goods and Merchandize, said to be sent on the said Expedition to *Canada*; but he saith, that he was so far from advising her late Majesty that the said Sum should be issued and paid, that on the contrary he put a stop to the Payment of the same, until he had done all he could at that time to examine into the Expenditure of the said Money: But being then High Treasurer of *Great Britain*, and having received Her Majesty's Orders to pay the said Sum, and not being able with his utmost Precaution then to discover any just Cause why it should not be paid; he did afterwards, in Obedience to those Orders, and according to the Duty of his Place, counter sign a Warrant to the Paymaster of Her Majesty's Forces for the Payment of the same, pursuant to which, he believes the same was issued and received. And as to that Part of the said Article, which charges the said Earl with employing his Arts or Credit to keep the House of Commons from examining that Affair; he begs leave to say, That (whatever Suspicions he might entertain in his own Mind) he did not upon Examination find, that there was sufficient Proof to justify the laying them before either House of Parliament. And altho' he hath been inform'd, that the Papers relating to that Expedition were laid before the last, and have all along been in the Power of the present House of Commons, yet he hath not heard, that any Fraud hath been made out of that Affair, notwithstanding the Gentlemen who had them under their Inspection, neither wanted Ability to make the utmost Discoveries, nor could be supposed to be prevented therein by any Influence of the said Earl; and he hopes it will not be imputed to him as a Fault if he had us'd any Skill or Credit to keep the House of Commons from examining this Affair, at that Juncture, when by an unseasonable Inquiry, before a proper Proof could be had, the Fraud, if any such there were, would be likely for ever to escape unpunish'd. But the said Earl denies, that he ever exercised nor had any Arbitrary Power or Influence, either in Her Majesty's private Council, or the great Council of the Nation, or entertained any Design to prevent the Justice due to the Queen or the Nation, or that any Discovery had been made to him,

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Further than what might give Suspicion to one who was always jealous (as became him) of any Misapplication of the Publick Treasure. And the said Earl saith, that he is not conscious, that by any Letter, or Memorial to Her Majesty, he hath acted contrary to his Duty. But hopes he may be allowed to observe, that it would be a Matter of particular Hardship, and what seems to him inconsistent with the Rules of Honour and Decency, if the most secret and intimate Papers and Letters wrote to that most renowned and pious Princes, her late Majesty, by her own special Command, and for her own private Perusal, should be imputed to any a Crime; and if any Quotation from any such Letter or Paper, could be alledged against the said Earl, he doubts not but there might appear from other of Her Majesty's private Papers what would justify him in many Particulars, wherewith he is charged, and would give further Proof (if it were needful) how tender and affectionate Her Majesty was to all Her Subjects.

In Answer to the Second Additional Article,

The said Earl doth admit, That about *October 1711*, Her late Majesty did sign a Warrant directed to him, then Her Treasurer of *Great Britain*, for the issuing and payment of the Sum of *13000 l.* to *John Drummond Esq;* in the Article named; and that on or about the *24th of November* following, in pursuance of the said Warrant, under Her Majesty's Sign Manual, he the said Earl did Sign a Warrant for the payment of the said *13000 l.* but for more Certainty begs Leave to refer to the said several Warrants, when the same shall be produc'd: And the said Earl takes the Words (*for Special Services of the War*) to have been inserted by Mistake of the Clerks; for he absolutely denies, That he gave any Direction for those Words, or any other of like Import, to be inserted: And he believes all the Clerks of the Treasury know, that the Monies which arose from the Sale of Tin was the Queen's proper Money, for the Support of Her Household, and such Occasions as she should please to direct, and not appropriated to the Services of the War, altho' sometimes it hath been practis'd, that Loans have been taken upon Tin-Tallies, for the Services of the War, and other publick Services, and afterwards repaid to the Civil List, which might possibly give Occasion for such Mistake. And the said Earl saith, That having been acquainted with the Services the said *Mr. Drummond* had perform'd by Order of the late Earl of *Godolphin*, in borrowing Money upon Tin at a low Interest, the said Earl ask'd *Mr Drummond's* Consent, that a Sum in Tin-Tallies might be stru'd in his Name, and with such Consent did direct, that Orders amounting to the Sum of *13000 l.* should be charg'd in the Register of the Exchequer, on the Monies arising by the Sale

Sale of Tin, in the Name of the said Mr. *Drummond*, who afterwards, before his going to *Holland*, endor'd the said Orders at the said Earl's Request, and left them in the Treasury; but how long it was before the said Orders were endor'd, or how long they remain'd afterwards in the Treasury, the said Earl doth not particularly remember; but doth acknowledge, that the said Orders and Tallies came afterwards to his own Hands, and were dispos'd for his own Use. But in order to lay the true State of this Affair before your Lordships, The said Earl humbly represents, that upon attending the late Queen, after his being wounded, Her Majesty had the Goodness to tell him, That She design'd him a Sum of Money: Upon which he represented to Her Majesty the bad Condition of Her Civil List. But several times after Her Majesty ask'd him, Why he did not find a Way for receiving Money she intended him, and bring the necessary Warrants for that purpose? He still urg'd the same Reason against it, and for near six Months made no Step in it, till at last her Majesty was pleas'd to say, She was resolv'd to have it done. And as Her Majesty had, in Matters of Her Bounty, made use of Tin-Tallies for other Persons, She was pleas'd to mention the same Herself, and order'd proper Warrants to be prepar'd for the Sum, which Her Majesty of Her Royal Bounty intended him: That after Her Majesty had so positively signify'd Her Royal Pleasure, to bestow such Marks of Her Favour upon the said Earl, the said Tallies and Orders were struck in Mr. *Drummond's* Name, with Her Majesty's Knowledge, and at the said Earl's Nomination; and from that time the same were kept under the said Earl's Direction, for his Use. And the said Earl was advis'd, that nothing further was requisite to be done, after the Assignment of the said Mr. *Drummond*, for securing the said Earl's Interest in the said Tallies, 'till an Accident happened, which made it necessary for further Security, to have the said Warrant as a Declaration of Trust, which was accordingly Sign'd by Her Majesty, and is to the Effect following.

A N N E R.

WHEREAS in the Year of Our Lord One Thousand Seven Hundred and Eleven, in Consideration of the many good, faithful, and acceptable Services which before that time had been performed unto Us, by Our Right Trusty and Right Well-beloved Cousin and Counsellor, Robert Earl of Oxford (then and now Our High Treasurer of Great Britain;) Which Services have tended to the Quiet, Safety, and Prosperity of Us and Our Realms, though the same were Accompanied with great Difficulties upon himself, and Hazards to him and his Family. And particularly

particularly Reflecting upon the Impious Attempt made upon his Life: We did then fully Resolve, as a particular Mark of Our Favour, and of Our Gracious Acceptance of the said Earl's Services, to bestow upon him a Sum in ready Money. But the said Earl representing to Us, That the Arrears then due to Our Servants and Tradesmen, chargeable upon Our Civil List, were very great and pressing,

We did therefore Agree and Determine, That the said Earl shou'd have to his own Use, the several Sums amounting to Thirteen Thousand Pounds, comprized in certain Orders of Loan bearing Date on, or about the Eleventh Day of December One Thousand Seven Hundred and Eleven, in your Name, and Charg'd upon the Register in Our Exchequer on the Monies arising by Sale of Our Tin, which Orders are not yet in Course of Payment.

Now We do hereby declare and make known, That the said several Sums amounting to Thirteen Thousand Pounds, contained in the said Orders, and the Interest hereof, due and to be due, are, and shall be the proper Monies of the said Earl of Oxford.

And We do hereby Direct and Authorize You to Transfer and Assign the said Orders, and the whole Right and Benefit thereof to the said Earl and his Assigns, or to such Person or Persons as he shall appoint in that behalf. And in case any the Monies due, or to be due, or payable upon the said Orders shall come to your Hands; In such Case Our Pleasure is, that you forthwith pay over the same to the said Earl, his Executors, Administrators, or Assigns, to his and their own Use and Beboof, without any Account to be therefore rendered to Us, Our Heirs, or Successors. And this our Warrant, or an Attested Copy thereof, shall be your sufficient Warrant and Discharge for so doing.

Given at Our Court at Windsor-Castle the Fourteenth Day of December, in the Twelfth Year of our Reign, Anno Dom. 1713.

To Our Trusty and Well-beloved
John Drummond, Esq;

And the said Earl believes the said Warrant was drawn by Mr. Lowndes, Secretary to the Treasury, and by what Means the same was omitted to be entred into the Treasury, he knows not; but upon hearing there was a Discourse about the said 13000 l. in Tin Tallies, he sent a Copy of the said Warrant to the Officers of the Treasury, without signifying any Desire to have the same Entred, well knowing it receiv'd its Authority from the Sign Manuel, which wanted no additional From or Entry thereof in the Treasury Books. And the said Earl

Earl saith, That Her Majesty was pleas'd, of Her mere Goodness and Bounty, and of Her own free Will, to give him the said Sum of Money, in Reward of his faithful Services, and for his Sufferings in Her Service. And the said Earl saith, That the said Grant, according to the Discount upon those Tallies at that time, amounted to the Sum of 10000 l. or thereabouts, wherein he acknowledgeth the great Bounty of Her Majesty, and takes notice, That Grants much larger have been made from the Crown to other Ministers of State, while the Necessities of the Crown have been equally pressing. And the said Earl doth not know that in this, or any other part of his Administration, he ever was guilty of any Corruption, or any Breach of his Oath or Trust as High Treasurer of *Great Britain*; or that he did in any manner abuse Her Majesty's Goodness, or make an ill Use of his access to Her Majesty, or embezzle the publick Treasure; or did at any time, knowingly, injure or oppress Her Majesty's Subjects, but on the contrary the said Earl saith, That he manag'd the publick Money in most frugal manner, in order to lessen, as much as might be, the Charge of the War, and to Ease, if he could, the Commons of *Great Britain* from all grievous Taxes. And in further Vindication of himself, against all the imputation of Avarice or Corruption insinuated in this Article, the said Earl saith, That in every Employment, to which he was called by Her Majesty's Favour, he was always contented with the accustomed Incomes and Profits of the said Employment, without endeavouring to increase his Gain by any unwarrantable or extraordinary Perquisites; That whilst he was in any Office of Trust about Her late Majesty, he never abused that Trust in making any Manner of Profit or Advantage to himself, either by the Disposal of Places in his own Gift, or by the Recommendation of Persons to Her Majesty for such as were granted immediately by Himself; That neither in, nor out of Place, did he ever receive any Pension from the Crown; That as he came with clean Hands into Her Majesty's Service, so went not only with clean but almost empty Hands out of it, having spent therein most Part of the Profits which accru'd to him from the Places he enjoy'd; so that at this Time, notwithstanding all the Advantages he receiv'd from them, and the extraordinary Bounty of the Queen to him, in this Article mentioned, he can, with great Truth affirm, that his private Fortune hath thereby receiv'd very inconsiderable Addition.

Answer to the Third Additional Article.

In Answer to the Third Additional Article, the said Earl says, that *Matthew Prior* Esq; being employed by Her late Majesty at the Court of *France*, Warrants were sign'd in the usual Form for Payment of several

veral Sums of Money to the said Mr. *Prior*, which he belives from the 27th of *August* 1712, to the 10th of *July* 1713, might amount to the Sum of Twelve thousand three hundred and sixty Pounds, as in the said Article is set forth; and he believes he did pay or cause to be paid at several Times the said Sums, pursuant to the Authority he had from Her late Majesty for that Purpose, which he conceives was not only lawful, but a Duty incumbent on him. He further saith, That he doth not know that by any Law there ought to be certain Appointments, or Allowances for the Maintenance and Support of Embassadors, Envoys, Plenipotentiaries, or other Publick Ministers of the Crown in foreign Courts: But that Her Majesty was at Liberty to vary such Appointments, and the manner of paying them, as She in her Wisdom should think fit, out of any Funds appropriated to the Civil List. He does believe, that there are several Instances, where Persons employed to Negotiate Matters of Importance, as Ambassadors or Plenipotentiaries, have been allowed One thousand five hundred Pounds for their Equipage; One hundred Pounds a Week for their ordinary Entertainment, and One thousand six hundred Pounds for Extraordinaries, and likewise further Sums for Services perform'd by special Order: And if the said Mr. *Prior* had been paid upon that Foot, he would have been entitled to a greater Sum from the Crown for the time whereof he was employ'd by Her Majesty, as aforesaid, over and above all Disbursements for special Services. And the said Earl saith, that he takes the said *Matthew Prior* to have been sent by Her Majesty into *France* for Her Majesty's Service, and in order to carry on the Negotiations of a General Peace; but denies, that he was any Creature of the said Earl, or sent by the said Earl into *France*, or that he carry'd on any Negotiations of the said Earl, or that Her Majesty was prevailed on by his Councils to send the said *Matthew Prior* as Her Plenipotentiary to the *French* King, without the Privy of or any Communication with Her Allies, or that the said Earl used the least Contrivance for carrying on, did carry on or promote any dangerous Practices with the Ministers of *France*, or the Enemies of Her Majesty or Her Kingdoms, or that he did at any Time combine with the said *Matthew Prior* to defraud Her Majesty of any Sum of Money whatsoever, under Colour of his Employment; or that the said *Matthew Prior* was sent into *France* with the Character aforesaid, or without any settled Appointment or Allowance for any such End, or that he the said Earl did give the said *Matthew Prior* an unlimited Credit, or promised to pay him any Bills whatsoever, other than what he should be duly authorized to pay; or that any Bills of Exchange, in the said Article mentioned,

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were drawn in pursuance of any such Contrivance. The said Earl saith, that *Thomas Harley*, Esq; having been twice sent by Her Majesty to the Court of *Hannover*, he the said Earl being then High Treasurer of *Great Britain*, paid or caused to be paid to the said Mr. *Harley* the Sum of Five Thousand Five Hundred and Sixty Pounds, or thereabouts, by Authority from Her Majesty, and according to the Duty of his Office, out of Monies appropriated to the Use of the Civil List. And he believes, that if Mr. *Harley* had received an Allowance in Proportion to what hath been paid to Ambassadors, it would have amounted to a greater: Sum But denies, that the said Sum of Five thousand five hundred and sixty Pounds, or any Part of it was paid without Authority, or for promoting any wicked Purposes of the said Earl, or that he did either illegally or fraudulently issue, or direct, or advise the Direction or Payment of any Sum or Sums of Money out of Her Majesty's Treasury, or any Person whatsoever, or that he ever entred into any Combination with the Persons above-mentioned, or any other Person whatsoever, to defraud Her Majesty of any of the Publick Money which he was entrusted with the Management of.

Answer to the Fourth Additional Article.

In answer to the Fourth Additional Article, the said Earl denies, That he ever held any Correspondence with *Mary* the late Consort of the late King *James II.* either by the Means of Mr. *Prior*, or by any other Means whatsoever, or that he ever intended, or had the least Design any Way to promote the Interest of the *Pretender*; nor doth the said Earl know or believe, that Monsieur *Gaultier*, in the said Article named, was entrusted or employed as an Agent between any of the Ministers of *Great Britain* and *France*, in Transacting any Affairs relating to the *Pretender*; denies, that he the said Earl had any Conferences with him the said Mr. *Gaultier* on that Subject: Nor doth the said Earl know or believe, that he the said Mr. *Gaultier* was empower'd to Concert with him the said Earl, particularly the Settling any Payment or Remittance of the Annuities hereafter mentioned, or any other Yearly Sum to be paid or remitted out of Her Majesty's Treasury into *France*: Neither had he the said Earl the least Design, that any of the Fruits or Advantages of the Peace should be made an Offering to any Adherent of the *Pretender*; nor did he agree or undertake to procure the Payment of the Yearly Sum of Forty Seven Thousand Pounds, or any other Yearly Sum, to the Use of the said late Consort, during Her Life. But the said Earl doth admit, that the late King *James II.* by Letters Pattents under the Great Seal of *England*, bearing Date on, or about the Twenty Eighth Day

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of *August*, in the Year 1685. granted unto *Lawrence* Earl of *Rochester*, *Henry* Earl of *Peterborough*, *Sidney* Lord *Godolphin*, *Robert* *Worden*, Esq; and Sir *Edward* *Herbert*, Kt. (who are all since deceased) divers Annuities or yearly Sums of Money, amounting to Thirty seven thousand three hundred twenty eight Pounds, thirteen Shillings and seven pence, payable out of the Hereditary Duty of Excise, and the Post-Office, and other Revenues in the said Letters Pattents mentioned, to hold to them, and their Heirs, during the Life of the said Consort, in Trust for her. And by other Letters Pattents, bearing Date, on or about the Third Day of *Decemb.* in the Year 1686. also granted unto the said Consort a further Pension, or yearly Sum of Ten thousand Pounds, to hold during Her Natural Life; whereby the said Revenues arising from the Hereditary Excise and Post-Office, and other the Revenues in the said Letters Pattents mention'd, became charged with, and were liable to the said Annuities or yearly Sums, as in this Article is mention'd. And the said Earl doth admit, that the said Revenues were by several Acts of Parliament granted and settled during the Life of His late Majesty King *William* the Third, for the Use and Service of His Household and Family, and for other his necessary Expences and Occasions; and after his Demise, during the Life of Her late Majesty Queen *ANNE*, were appointed to be for the Support of Her Household, and of Honour and Dignity of the Crown; but saith, that in the same Act of Parliament, whereby the said Revenues are so appointed, there is a general Saving to all and every Person and Persons of all Rights, Titles, Estates, Interests, Claims and Demands whatsoever, of, in, or to, or out of the said Revenues and Hereditaments, or any of them, as they, or any of them, had, or ought to have had, before making the said Act, as fully, to all Intents and Purposes, as if the said Act had never been made. And the said Earl doth admit, that an Act of Parliament was made in the Twelfth Year of Her late Majesty's Reign, whereby the Sum of Five hundred thousand Pounds, for Causes therein mentioned, was to be applied (in Aid of the Revenues, or Branches which were appointed for the Support of Her Majesty's Household, and of Honour and Dignity of the Crown) for, or towards the paying the such Arrears of Sallaries, Wages, Diet-money, and other Allowances, and such Debts for Emptions, Provisions, and other Causes as should appear to be due and owing to Her Majesty's Servants, Tradesmen and others. But the said Earl saith, he hath heard, that the said late Consort of the late King *James* II. esteeming herself to be entitled by the Laws of *England*, by vertue of the said Letters Pattents to the several yearly Sums of Money therein mention'd, did by Letter of
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Attorney impower and authorize the said Mr. *Gaultier* to demand and receive for her only Use, Benefit and Behoof, all Sums of Money which from and after the Feast of the *Annunciation* of the Blessed Virgin, 1713, were become due and payable upon the said several Annuities, amounting to Thirty seven thousand three hundred twenty eight Pounds, thirteen Shillings and seven Pence, and the other Annuity or yearly Sum of Ten Thousand Pounds, and to give Acquittances and Discharges for the Monies he should so receive to her only Use and Behoof, as aforesaid; and that thereupon he the said *Gaultier* applied himself to her Majesty for the Payment of the Monies which were incurred or grown due on the said several Annuities, from the said 25th of *March* 1713. and that her Majesty was pleased to sign a Warrant, directed to him the said Earl, being then her Majesty's High Treasurer, or to the High Treasurer, or Commissioners of the Treasury for the Time being, in the Words, or to the Effect in the said Article set forth; but for more Certainty refers himself to the said Warrant, when the same shall be produced. And that in Obedience to her Majesty's Commands, signified by the said Warrant, he the said Earl did direct two several Warrants to the Auditor of the Receipt of the *Exchequer*, to the Effect in the said Article set forth; but for more certainty refers to the said several Warrants when the same shall be produced. But he denies he advised her Majesty to sign the said Warrant of the 23d of *December* 1713. but when such Warrant was brought to him, and he knew that the Jointure of the said Consort had been confirm'd by Act of Parliament, and had heard, that by some private Article or Agreement at the Treaty of *Ryswick*, Provision had been made in relation to it; and the Legality of the Demand not being doubted by her Majesty's Council learned in the Law, the said Earl thought it his Duty to pay Obedience to it. And the Sum of Five hundred thousand Pounds intended to be raised by the said Act of the 12th Year of her Majesty's Reign, together with a great Additional Sum in Tallies, being design'd for discharge of her Majesty's Debts, the said Earl thought himself sufficiently authorized to direct that the said Sum of Money, mention'd in the said Warrants, which he was advised was a Debt from her Majesty, should be paid out of the said Five hundred thousand Pounds; yet the Sum in the said Warrants mentioned, or any Part thereof, was not paid out of the said appropriated Sum of Five hundred thousand Pounds or otherwise; but the whole Sum of Five hundred thousand Pounds was applied to other Uses, for which it was appropriated. And the said Earl humbly hopes, That he hath not thereby betray'd the Honour of her late Majesty, or the Imperial Crown of these Realms, or acted contrary to his Duty; and the said Earl doth acknowledge, that the said Mr. *Gaultier* coming into *England* with Letters of Credence from the *French* King to her late Majesty, after having resided sometime in *England*, her Majesty was pleased before his Departure, hence to direct a Present should be made to the said Mr. *Gaultier*, as hath been usual in like Cases to publick Ministers; and he believes her said Majesty was the rather inclined to make such Present to the said Mr. *Gaultier*, because the said Earl hath heard, and takes it to be true, that the said *Gaultier* had been instrumental with the *French* King to obtain the Delivery and Release of those poor Protestants, who had suffered aboard the Gallies on account of their Religion, whose Rescue from Slavery, her Majesty, out of her known Zeal to the Protestant Religion, and out of her wonted Piety and Compassion to the Confessors in so good a Cause, had much at Heart, and had prevailed herein beyond Expectation.

Pedation; it being what by his Majesty King *William* had been attempted in vain, and was thought by many impossible ever to be obtain'd: And the good Offices of the said *Gaultier* in that Affair, having been very acceptable to her Majesty, she was pleased to encrease his Present in respect thereof, and therefore order'd it to be paid in the same Manner as had been done to others, whose Presents her Majesty thought fit to augment. And for this End her Majesty, about the Time in this Article mention'd, did sign a Warrant directing the Payment of One thousand Pounds Sterling to *Daniel Arthur*, Esq; in the same Article mention'd, to the Intent it might be paid to the said Mr. *Gaultier* on the Account afore-said. And the said Earl believes, the said Monies were issued and paid accordingly, and doth not apprehend he hath therein acted contrary to his Duty.

Answer to the Fifth Additional Article.

In answer to the Fifth Additional Article, the said Earl doth admit the Sovereign of this Realm may refuse to receive any Natural-born Subject, who hath committed and is under the Guilt of High Treason, as a publick Minister, or with any Character from any foreign Prince, State or Potentate: And that where such Person is known to be guilty of such Crime, it may in most Cases be fit so to do. But he the said Earl apprehends, that the Sovereign is the proper Judge whom to refuse or receive with such Character. The said Earl believes, that a Person styling himself, or commonly known by the Name of *Lilcott* or *Lawless*, did about the Year 1712. or 1713. come into *England* with Letters of Credence to her Majesty from the King and late Queen of *Spain*, and Authority to Treat about carrying *British* Merchandizes to the *Spanish West-Indies*; and that her Majesty was pleas'd to admit such Person with such Letters of Credence; and before his return to *Spain* was pleased to order, for the Use of such Person the Sum of one Thousand Pounds, to be paid out of the Monies appropriated to the Civil List, which the said Earl in Obedience to such Orders caused to be paid, and humbly apprehends it was his Duty so to do. But the said Earl believes, that when the said *Lilcott* or *Lawless* was so admitted, he was generally thought to be a Natural *Spaniard*, and that from the Advantages of those Licences which he brought for carrying the *British* Merchandizes to the *West-Indies*, he expected a much larger Present; however the said Earl denies, that he knew or was informed before the Arrival of the said *Lawless* in *England* any thing of his coming hither, nor after his Arrival did he see him, or know of his being here before he had been introduced to her Majesty, it being usual for publick Ministers to be introduced by those Servants of her Majesty, to whose Office it belongs, as matter of Duty and common Dispatch, without consulting therein other Ministers of State. And upon the Notice taken of this Affair formerly in the House of Peers, it appeared, that the Noble Lord who introduced the said *Lawless* to the Queen, by virtue of his Office, did it as of Course, and did not then know he was other than a Native of *Spain*. And the said Earl saith, that of a long time after he had been so introduced, the said Earl neither knew nor heard that he was other than a Natural *Spaniard*; but when the said Person had continued in *England* a considerable time, there was a Rumour, and the said Earl was afterwards inform'd he was a Native of *Ireland*, and departed out of that Kingdom in his Youth, and had since been in the *Spanish* Service; but doth not know nor was informed, that he had committed or been guilty of High Treason, or that he had served the late King *James II.* in the War in *Ireland* against King *William III.* or had

had follow'd the said King *James II.* into *France*, or been in his Interest or Service, or had been in Rebellion against King *William*, or in Arms against the late Queen. And the said Earl having no Notice of the said Person's Arrival, before his being admitted to her Majesty, nor any Knowledge of any Crime he was guilty of, submits whether it shall be imputed to him as any want of Duty, that he did not advise her Majesty against admitting or receiving him in the Character aforesaid, or that he did by her Majesty's Authority Meet, Confer or Negotiate with him concerning any Affairs about which he was Authoriz'd to Treat (in Case he had so done, which however the said Earl doth not admit) or that by Authority from her Majesty he paid the said Sum of One thousand Pounds to the said *Daniel Arthur*, which after came to his Use. But the said Earl doth deny, that he advised her Majesty to sign the Warrant for Payment of the said One thousand Pounds, or gave any Directions for Payment thereof, contrary to what was intended by her Majesty. And the said Earl admits, that some other Sums of Monies (which might amount in the whole to Nine hundred and fifteen Pounds, or thereabouts) were paid in Satisfaction of Monies advanced to the said *Lawless*, as part of the Monies agreed to be advanced to his Catholick Majesty by the *Affiento* Contract; but denies, that he directed the Payment of any other Monies whatsoever out of her Majesty's Treasure to the said *Lilesh* alias *Lawless*, or knows that any other Monies were paid to him, besides the aforementioned Sum of One thousand Pounds, and the Monies paid in Satisfaction of what was advanced to him towards the Part due to his Catholick Majesty, by the said *Affiento* Contract. And the said Earl never assumed the Supream Direction in her Majesty's Councils, neither was he advising, that the said Person should be introduced to her Majesty, or should be received or treated by her Ministers under the disguised Name *Don Carlo Moro*, or should at all be received as a publick Minister here. And the said Earl doth acknowledge, that the House of Lords with commendable Zeal made such Address, and came to such Resolution, and that her Majesty made such Answer, and issued such Proclamation as in the said Article is mention'd. And as the said Earl had always the highest Regard to the Safety of her Majesty's Person, the Security of the Protestant Succession, and Advice and Resolutions of the House of Peers; so he denies, that he had the least Knowledge, that the said *Lilesh* alias *Lawless* had ever been Minister or Agent of the Pretender at the Court of *Madrid*, or the least Suspicion that he was sent into *England* to promote the Interest of the Pretender in these Kingdoms; nor is he conscious to himself, that he hath done any thing to expose the Person of her most sacred Majesty, to enervate or render ineffectual the Advice of Parliament, or her Majesty's Declarations, to Countenance any Emissary of the Pretender, or encourage his Adherents, to the Danger of the Protestant Succession as by Law establish'd in the Serene House of *Hannover*; but on the contrary is perswaded his Conduct in that Affair is so well known, as not to need any further Justification: But if it should at any time be thought necessary, he is able to produce those Proofs of it, which are the best Authority in the World for his Vindication.

Answer to the Sixth Additional Article.

In answer to the Sixth Additional, the said Earl hath been inform'd, and doth believe it may be true, That after several unsuccessful Attempts by her late Majesty in conjunction with her Allies, to establish his present Imperial Majesty upon the Throne of *Spain*, Instructions in Writing were given to *Mitford Crow*, Esq; about the 7th day of *March*, 1705, taking notice that her Majesty had been inform'd, The People of *Catalonia* were inclin'd to cast off the Yoke impos'd on them by the *French*, and to return to the Obedience of the House of *Austria*; and that her Majesty, desiring to maintain and improve that good Disposition in them, and to induce them to put the same speedily in Execution, and made choice of him to carry on so Great a Work, for the Advantage of Her Service and the Good of the Common Cause, as was the making a Treaty with the *Catalans*, or any other People of *Spain*, for the Purposes aforesaid; and that the said *Mitford Crow* was thereby empower'd to give the *Catalans*, or other *Spaniards*, Assurances of her Majesty's utmost Endeavours to procure the Establishment of all such Rights and Immunities, as they had formerly enjoy'd under the House of *Austria*, and the Confirmation of such Titles as had been conferr'd on

any of them by the Duke *Anjou*: And that for their further Satisfaction, her Majesty had sent to King *Charles* the Third, for Powers for confirming the same to them, and was willing, if they insisted on it, to become Guarrantee that it should be done. And the said Earl hath been likewise inform'd, That her Majesty, in a Commission granted to the said *Mitford Crow*, expressed, ' That She thought fit to enter into a Treaty with ' the Principality of *Catalonia*, or any other Province of *Spain*, on Condition they would ' acknowledge and receive *Charles* the Third, as lawful King of *Spain*, and utterly Abdi- ' cate the House of *Bourbon*, and join their Forces with her Majesty's: And that her Majesty was pleas'd also to Sign and Deliver to the said *Mitford Crow*, Credential Letters directed to the Nobility, Magistracy, and other Officers of *Catalonia*, or any other Province of *Spain*, desiring them to give Faith to every thing the said *Mitford Crow* should tell them in her Majesty's Name: And that Instructions were likewise given to the Earl of *Peterborough* and Sir *Cloudefly Shovel*, about the Time, and to the Effect in the said Article mentioned; and that a Manifesto or Declaration was afterwards published, by the said Earl of *Peterborough*, to the Effect in the said Article set forth; but the said Earl denies, that such Manifesto or Declaration was prepared by his Advice or privity. And the said Earl believes it may be true, that some part of the Nobility, Clergy and Inhabitants of the Principality of *Catalonia*, and also of the Inhabitants of the Island of *Majorca*, did afterwards acknowledge King *Charles* the Third (now Emperor) for their lawful Sovereign, and did join their Arms with those of her Majesty and Her Allies, against the present King of *Spain*, but by what Motives they were induc'd thereunto, the said Earl does not know. And the said Earl does acknowledge, That, for some time, the Arms of her Majesty and Her Allies in *Spain*, were attended with considerable Successes, in which the Bravery of the *Catalans* appear'd, and the Forces of the Confederates twice entred the Capital City of that Kingdom; by which signal Conquests, and the great Supplies that have been granted by Parliament, for their Assistance, the said People were under the highest Obligations of Gratitude to her Majesty; but the Advantages those Successes had given King *Charles* the Third being lost, her Majesty found the Burthen of that War very heavy to Her Subjects, the Conquest of *Spain* for the present Emperor impracticable, and after the Accession of the Empire and Descent of the Hereditary Countries to him, esteem'd inconsistent with the Interests of many of Her Allies, and therefore thought it necessary for the Good of her People, and the Tranquility of *Europe*, to enter into Negotiations for a General Peace. But the said Earl denies, That he entered into any Conspiracy for subjecting the *Spanish* Monarchy to the House of *Bourbon*, or ever had the least Design of the Ruin or Destruction of any of the Rights, Liberties, or Priviledges of the *Catalans*; or that he ever formed any Contrivance for abandoning them to the Fury or Revenge of the Duke of *Anjou*, or his Adherents; or for the extirpation of any of their Rights, Liberties, or Priviledges; or that he advis'd her Majesty to give directions to the Lord *Lexington* to acknowledge the Duke of *Anjou* King of *Spain*, before any Negotiation of Peace was set on foot in due Form of Law, between the Crowns of *Great Britain* and *Spain*. On the contrary the said Earl saith, that by Letters and Papers sent by One of her Majesty's Principal Secretaries of State to the Lord *Lexington*, it will appear, That after her Majesty had hearkned to the Proposals for a General Peace, for the Good of her Own People and her Allies, She us'd Her best Endeavours for obtaining the Liberties of the *Catalans*, at the conclusion of the Peace, and that his Lordship was directed peremptorily and absolutely to insist thereon: Nor doth the said Earl know or believe, that any Orders were ever sent from or given by her Majesty to any of Her Ministers, to recede from that Demand; or that the said Lord *Lexington* ever desisted from making the utmost Efforts he could for obtaining it. And if from any Measures of the *Catalans*, of his Imperial Majesty, or from any other Cause, her Majesty's Endeavours had not their full Effect; the said Earl conceives it cannot be imputed to any neglect of her Majesty, or any want of Duty in him the said Earl. He believes, That about the time the said Article mentioned, his Imperial Majesty, did enter into a Convention or Agreement for Evacuating *Catalonia*; and

and that her Majesty, out of Inclination to perform Her best Office to the Emperor, was prevail'd on to become one of the Guarrantees thereof; but denies, That his Imperial Majesty was necessitated by any practices of the said Earl to make any such Convention, and is ignorant for what Causes his Imperial Majesty, whom it most concerned, omitted, in such Convention, to make express and positive Stipulations for the Liberties of the *Catalans*. If it proceeded from any dependance upon the Declaration of her Majesty, to interpose Her best Offices on their Behalf, and the Promises of the *French King* to joyn his Endeavours therein: he is confident it will appear, her Majesty's best Offices were employ'd in that affair, when it is consider'd, what repeated Instances She made by her Ministers, and in the most pathetick manner, to obtain for them the Priviledges they desir'd. And that Her Majesty by Her earnest interposition, did obtain a Grant and Confirmation to all the Inhabitants of *Catalonia*, of a perpetual Amnesty and oblivion of all that was done in the late War, the full Possession of all their Estates and Honours, and farther Grant of all their Priviledges, which the Inhabitants of both *Castiles*, who of all the *Spaniards* were most dear to the King of *Spain*, enjoy'd, or might at any time after have, or enjoy; whereby the *Catalans*, if they obtain'd not all the antient Priviledges they pretended to, receiv'd however in compensation thereof, the Advantage of Trading directly to the *West-Indies*, and other Priviledges, to which they were never before entituled. And the House of Peers, upon Consideration of several Papers laid before them, relating to this Affair, in pursuance of their Addresses to her Majesty in that behalf, express'd their utmost Thankfulness and Satisfaction for her Majesty's repeated and Earnest Endeavours for preserving to the *Catalans* the full enjoyment of all their just and antient Liberties. And it is probable her Majesty had prevail'd to obtain for them their antient Priviledges and Liberties, in the largest Extent, if they had waited the Event of her Gracious Interpositions in their Favour, and not determined to carry on the War by themselves against King *Philip*, after the Emperor had Sign'd the Convention for Evacuating their Country, which incens'd the King of *Spain* in the highest degree, and was look'd upon by him as the most obstinate Rebellion. However, the said Earl saith, he never amus'd the *Catalans* with any Expectations whatsoever, nor in any degree contributed to engage them in an obstinate Defence against the Duke of *Anjou*; nor Advis'd her Majesty to conclude a Peace with *Spain* without Security for the antient Rights, Liberties and Priviledges of that People; or to send Sir *James Wisbart* with a Squadron of Men of War, for the purposes in the said Article mention'd; but believes her Majesty might think herself oblig'd, by being Guaranty to the said Convention, for the evacuating of *Catalonia*, to send the said Sir *James Wisbart* into the *Mediterranean* with a Squadron of Men of War, altho' he knows not the Orders or Instructions given on that occasion; and humbly apprehends, That he cannot, in Justice, be charged with any Consequences from that unhappy People's refusal to comply in their submission to the King of *Spain*, upon the Terms her Majesty had stipulated for them.

CONCLUSION.

THUS the said Earl has laid his Case before your Lordships, wherein he hopes he has fully answer'd the several Articles exhibited against him; yet least there should be any Omission in his Answer, which may be made use of to his prejudice, he says, he is not guilty of all, or any the Matters contain'd in the said Articles, or any of them, in manner and form as they are therein charged against him: And humbly hopes that your Lordships will excuse any Imperfections or Defects in the said Answer, with regard to Expression or Form; and impute whatever of that Kind may appear, to the great weakness of Body, and ill State of Health which the said Earl now labours, and hath for some Months past labour'd under: And that your Lordships will be induc'd to make all further due Allowances in his Favour, from the following Considerations, which relate to the Nature of the Charge in general, and the Difficulties with which his Defence of himself, against the Particulars contain'd in that Charge, is, and must be attended. Most of the Articles with which he stands charg'd, relate entirely to the Negotiations of the Peace lately con-

concluded at *Utrecht*; he doubts not but your Lordships will consider, that he must of necessity be under great Difficulties, in giving a full and particular Account of such a great Variety of Facts as are contain'd in these Articles; that several of those Facts concern Transactions with the Ministers of Foreign States, who cannot be produced as Witnesses in his Defence, be their Testimony never so material; that many Steps and Proceedings in an Affair of this Nature, where the Interests of several Parties, not only separate from, but some of them also contrary to each other, are to be adjusted, do require great Secrecy and Address in the Management. And that in Treaties between Enemies, such Terms are often proposed, and such Arguments used, as carry a different Appearance from the real Intentions of those that treat: Upon which accounts it must be very difficult to set every thing that pass'd in the late Negotiations, with regard to the Enemy, and to the Allies, in a clear Light, and to justify every Step that was taken towards conducting them to the End propos'd, especially since the Account of those Transactions, and of the Reasons on which they were founded, cannot, as he conceives, be duly cleared, but by inspecting the intire Series of Letters and Papers which pass'd during the continuance of those Transactions, and by comparing together such Passages in them, as might give Light to each other, and to the whole. All which Letters and Papers are (as he is inform'd) now in the Possession of the Honourable House of Commons; nor was it thought fit, upon his humble Application to your Lordships, that he should be indulg'd with a Copy of any of them. He hopes that it may not misbecome him, on this Occasion, to observe to your Lordships, That the House of Commons, by being possessed of those Papers, have a fuller View of the whole Progress, and of all the secret Steps of that Negotiation, than perhaps was ever in the like Case imparted to any House of Parliament, and they have therefore all the Advantage possible towards forming the Charge against him upon the Articles of his Impeachment; whereas he (the said Earl) being destitute of all Assistance from those Papers, is under great and particular Disadvantages towards making his Defence, in the Points whereof he there stands accused; and he is therefore humbly assur'd, that as your Lordships on the one side, will not expect from him any such Proofs of his Innocence, as can only be drawn from a perusal of those Papers; so on the other, you will not admit of all, or any of those Articles, as made good against him, unless the Accusations therein contain'd, be supported by the clearest and most unquestionable Evidence, of which the Nature of the Facts is capable. He submits it likewise to your Lordships Consideration, whether in a Negotiation drawn out into a great length, where the Advice of all those in high Trust about her Majesty was to be taken, and where several Persons were to be entrusted with the Management of what was agreed upon, he can with any Colour of Equity be made answerable for advising and conducting the whole? He desires also farther to observe, That every thing with which he is charged, was done in the Reign of a gracious Princess, now deceas'd, who, by Reason of the perfect Knowledge she had of the ill State of Affairs at Home, of the Advances made towards Peace from Abroad, and of the Commands which she at several times laid on her Servants, had been the best, and indeed could be the only competent Judge, whether she was fraudulently dealt with, led by ill Advice into Measures which she did not direct and approve, or made any Instrument of Sacrificing the Interests of her Kingdoms to the Enemy. It is with great Grief that he finds such Things suggested, as seem to lay a Stain upon the Character of so excellent a QUEEN, whose Memory he is confident well be for ever dear to this Country. And therefore he takes leave, in the most solemn manner to assure your Lordships, That as far as he knows, or can remember, every thing relating to the Transactions of Peace, was communicated to her late Majesty, and maturely consider'd by her before any thing was determin'd thereupon, nor was any Step taken but in pursuance of such Determination. As to the Peace in general, he the said Earl thinks he has very good Reason to say, That the Queen had nothing more at Heart, than to procure so great a Blessing for her People; and that when it was obtain'd, she had this Satisfaction in her self, that she had taken the most proper Measures to justify her Conduct, both toward her Allies and toward her own Subjects: For upon a review of her Majesty's whole Proceedings,

ceding, in relation to War and Peace, he believes it will appear, and hath in part appear'd by the Answer of the said Earl, to the said Articles, that as her Majesty enter'd further into the War than she was oblig'd by any Treaties, subsisting at the time of her Accession to the Throne, so she contributed more Men and Money towards the carrying it on afterwards, than she was engag'd to provide by any subsequent Treaties. That her earnest Desires of Peace being twice frustrated, when such Conditions might have been obtain'd, as would have fully answer'd all the Ends for which War was at first declar'd: That all our Successes and Victories ending in the Annual Increase of the Charge of *England*, without any further assistance from our Allies, and her Kingdoms being exhausted to such a Degree (notwithstanding the great Advantages obtain'd by her Arms) that she was not able to continue the War upon the Foot it then stood 1 Year longer; whilst her Allies refus'd to continue it upon those equal Conditions, to which they were by Treaties oblig'd: She was at last constrain'd, in Compassion to her People, to harken to the Overtures of Peace then made her from *France*, without relying farther on the vain Hopes of gaining more advantageous Terms, by protracting the War a year longer: She had carry'd it on for some time under that Prospect, without reaping the Benefits propos'd, even at Junctures that seem'd most favourable to her Demands, and to the Pretensions of her Allies; she had indeed by that means rais'd the Glory of her Arms, but she could not think this a sufficient Recompence for the encreasing Miseries of her People, and therefore resolv'd to lay hold of the Opportunity then offer'd to her, of ending the War by a Peace, if it might be obtain'd upon Terms every way just, safe and honourable; and those who were then employ'd in her Majesty's Councils, thought themselves oblig'd to second her good Intentions in this Case, and to obey her Commands with all readiness. The said Earl presumes, on this occasion, to mention to your Lordships the Saying of as Wise a Man, and as great a General as the last Age produced, the Duke of *Parma*, when *France* was in a far lower Condition than now, being almost equally divided between two contending Parties; and *Spain* was at the height of its Glory, and he himself at the Head of a Spanish Army, supporting one of those Parties, after *Paris* itself had been besieged by the other, it was his Opinion, (and the Advice he gave to his Majesty, the King of *Spain* was ground'd upon it) "That if *France* were to be got only by reducing its Towns, the World would be sooner at an end than such a War." The Queen seem'd at this time, with better Reason to frame the like Judgment; and it was therefore her Pleasure, and a great Instance (as the said Earl conceives) of her Wisdom and Goodness, to think of securing a Peace while she appear'd able to carry on the War, her Armies being full and numerous, and before the exhausted Condition of her Kingdoms, and the impossibility on her Side of maintaining so disproportioned an Expence, was discover'd by her Enemies. At this Juncture the Queen enter'd upon a Negotiation of Peace, with Circumstances of great Honour to her self, *France* applying to her first on this account, previously owning her Title, and acknowledging the Right of the Protestant Succession, two chief Grounds upon which the Declaration of the last War was built: As to the Allies, it was conducted in the same manner as all Treaties of Peace in Confederacies have ever been, and according to the known Laws of Nations in such Cases; the first Motion, and the several Steps of it, as fast as they ripen'd into Proposals fit for Consideration, being without delay communicated to the States-General. By the Terms of this Peace, as all reasonable Satisfaction and Security due to any of the Allies, by Treaty, were obtain'd for them by the Queen, and their just Pretensions effectually supported; so larger Advantages were actually procur'd for *Great-Britain* in particular, than ever had been demanded before in any Treaty or Negotiation between this and any other Foreign State. The said Earl craves leave, on this Occasion, to appeal to your Lordships, whether all the Ends, for which the War was enter'd into, have not by this Treaty been fully attain'd? Whether it does not appear, by the best of Proofs, Experience, that the Kingdoms of *France* and *Spain*, are by the Conventions of this Treaty most effectually separated? And whether any other Expedient could have been so successful to this purpose, as that whereby it is now happily brought about? Whether the Ballance of Power in

in *Europe* be not now upon a better Foot than it has been for an Hundred years past? Whether the advantages that have accrewed to *Great Britain*, by this Treaty, do not appear, and have not appear'd in the Security of the Protestant Succession, and in his Majesty's peaceable Accession to the Throne, with the universal Applause of his Subjects, in the Additions made to our Wealth by the great quantities of Bullion lately Coin'd at the Mint, by the vast increase of Shipping, employ'd since the Peace, in the Fishery, and in Merchandize, and by the remarkable Rise of the Customs upon Import, and of our Manufacture, and the growth of our Country upon Export. For the Proof of which particulars he refers himself to those Offices and Books wherein an Authentick account of them is contained. And as the Terms of the Peace were in these and other respects manifestly profitable to *Great Britain*; so the said Earl begs leave humbly to remind your Lordships, that they were communicated to the Parliament, and with their Concurrence, agreed on: That the Peace thus concluded, was (afterwards) highly approved by both Houses; that Solemn Thanks were rendered to God for it in all our Churches, as well as in the Churches of the United Provinces; and that her Majesty received on this Subject, the hearty and unfeigned Congratulations of her People from all Parts of her Dominions.

These being the real Effects, and this a true Representation of her Majesty's Conduct, in the Affairs both of War and Peace; the said Earl sees not how he, or any others in her Majesty's Service, can be justly charged with betraying the Interests of their own Country, and of the Allies by negotiating and promoting that Peace, which then was, and (as he has good Grounds to believe) still continues to be very acceptable and advantageous to these Kingdoms; and if the Peace itself be not condemned, and it be not even charged upon the said Earl as a Crime, that he advised her Majesty to conclude that Peace, (neither of which appear to him from the said Articles,) he humbly conceives it is a particular and extraordinary Hardship upon him; that rough Draughts and Essays towards a Peace, with other Preliminary Steps in a Negotiation, all leading to an End which he looks upon to be just and profitable, and which is not in any of the Articles alledg'd to be otherwise, should be brought into so many distinct Heads of Accusation against him. For supposing, that in the process of so nice and difficult an Affair, subject to divers unforeseen Obstructions and Events, any improper Steps had been taken, which the said Earl doth not admit, but altogether on his part denies, yet if Things were at last conducted to a right Issue, and ended in an honourable and advantageous Peace, there can be (as he conceives) no just Ground to find fault with the Measures made use of to compass it, because they seem'd before the Accomplishment to have a different Tendency; especially if it be considered, that scarce any Peace hath been made by a Confederacy, where less Occasion was administred for Jealousy among the several Parties, and less Reason given to complain, that every Nicety required, by the Letter of such an Alliance, was not strictly observ'd; and therefore he humbly hopes, that no Steps taken for obtaining a Peace, approved by the Wisdom of former Parliaments, shall by any succeeding Parliament be accounted Criminal, unless it can be made appear that those Steps were taken contrary to the Queen's Orders, or upon corrupt Views of private Advantage; but that no Charge of this Nature can be made good against him, he presumes to affirm, with great assurance, nor does he know of any other Persons justly chargable upon either of these Accounts. And as a farther Proof, that those who had the Honour to serve her Majesty in the Negotiations of Peace, acted with upright Views and Intentions, and without being conscious to themselves of any failure in their Duty, either to their Queen, or their Country: The said Earl craves leave to observe to your Lordships, That they never attempted to cover their Actions from publick Censure, by any Pardon or Indemnity, tho' they had very good Reason to believe, that had they judg'd, or imagined themselves to have wanted such Security, it might (thro' the Goodness of the Queen) have easily been obtained. Nor can he think it an Observation unfit to be made, that in few of the Articles which concern the Negotiations of Peace, the Charge is founded on any Breach of the Laws of *Great Britain*, but it is in most of them built chiefly on the supposed infraction of certain Treaties and Alliances with foreign Princes or States;

States; and he conceives that such Infractions of publick Treaties, where they do not particularly affect the Interests of *Great Britain*, being cognizable by the Laws of Nations only, and not by those of the Realm are not wont to be examin'd into here at home, and prosecuted as Criminal, but upon the Complaint of some Prince or State, pretending by that means to be injur'd, and lodging such Complaint in some reasonable time with the Prince, by the Advice of whose Ministers and Servants such Injury is supposed to have been done; but he knows not that any such Steps have been taken since the Peace, by any of the Powers concerned; on the contrary he believes that all the Allies, except the Emperor and Empire, made their Peace with the Enemy at the same time the Queen did, and that none of them did afterwards complain to her Majesty (who surviv'd the said Peace a Year and almost four Months) of any Hardships impos'd upon them in it. That the Princes of the Empire, who contributed very little to the War, might have concluded their Peace upon reasonable Terms at the same time the other Allies did, and would probably have done it, if the Emperor on his part had been willing to sign together with them, which he is inform'd, at the Conclusion of any General Peace, has been seldom done; and particularly at the several Conclusions of the Peace of *Munster*, that of *Nimeguen*, and that of *Ryswick* was not practiced. And he submits it to your Lordships Consideration, whether the Emperor, having had all reasonable and equitable Satisfaction made him for his Pretensions to the Succession of the *Spanish* Monarchy, according to the Terms of the Grand Alliance, could have any just Reason to complain of the Queen's Ministers, or those of her Allies, for concluding a Peace, without insisting on his Account upon impossible Conditions; especially when no Provision was made, or offer'd to be made, to reimburse her Majesty any part of those vast Sums she had already expended in support of his Pretensions, whilst he fail'd of supplying his Quota, almost in every part of the War, notwithstanding his new and great Acquisitions. But whether the Emperor, or any other of the Allies had any just ground of Complaint or not, still the said Earl presumes to insist, that it ought to have been signify'd to the Queen, who upon such Complaint, had she found any of her Servants justly blameable, as disobeying her Orders, or misleading her by their Advice, into unjustifiable and dishonourable Measures, might have punish'd them forthwith as their Offences deserv'd; but nothing of this kind having been done, he humbly leaves it to be consider'd by your Lordships, whether the Silence of the Powers concern'd, doth not carry in it a strong Presumption, either that they had no real and just Ground of Complaint, in relation to the Terms of the Peace it self, or at least did not look upon the Ministers of the Queen as any way liable to blame on that account; and therefore he must again beg leave to express to your Lordships his Concern, that he should be charg'd as a Criminal, by the Laws of this Land, for supposed Breaches of Treaties with Foreign States, which never were complain'd of, as such, by the States themselves, during the Life of her Majesty. He desirous farther to observe to your Lordships, that whatever he is charg'd with carrying on a private and separate Negotiation, 'tis all along understood with regard only to the States of the United Provinces, no step that was communicated to them being censur'd upon this Account; whereas all the other Allies, had by vertue of their Treaties with the Queen, a like Right to a Communications of Councils; and her Majesty was under no Stipulations to act more in concert with any one than with all of them. He does indeed allow it to have been most agreeable to Reason, and to the Interests of State, that the Queen should act in a closer Conjunction with *Holland* than with any other of her Allies, because that next to *Great Britain*, *Holland* bore the greatest share in the Charge of the War; but then he hopes it will be allow'd also, that the States being more interested in the Success of the War than *England*, and that *England* having submitted to a greater share of the burthen, in order to procure not only a fitting Security for the States, but such as brought great advantages to them, tho' no benefit to *England*, it was very reasonable for the Queen to take care of the Interest of her own Kingdoms some other way: And since the advantages she demanded from the Enemy, were such as she might obtain, without any prejudice to the States, it was as lawful for her to Negotiate this matter without communicating it originally, and in the first rise of it to them, as it was for her and the States to

concert

concert their mutual Interests together, without the immediate and express Participation of the other Allies, which being known to be done without a design to defeat any of the main Ends of the Alliance, was never complain'd of by any of the Confederates. And as for the matters concerted previously with *France* for the particular Interest of *England* without the original Intervention of *Holland*, the States were so far from protesting against her Majesty's Measures, and condemning her Conduct in this Respect, that their Minister proffer'd several times in their Name to have led the Way, in the most difficult part of the whole Negotiation, and to have done his utmost to facilitate the Conclusion of it, provided his Masters might have a Share in the *Affiento* Contract and Trade to the *Spanish West-Indies*, one of those Advantages which *France* had discover'd its Willingness should be allow'd previously and entirely to *England*.

These few general Observations the said Earl has thought fit to add in the Close of his Answer to the several Articles of his Impeachment, not only in his own necessary Vindication, but also in Defence of her late Majesty's Conduct in the negotiating and concluding a Peace, the perfecting of which she esteem'd as the greatest Happiness of her Reign. Upon review of the 22 Articles with which he is charg'd, as he is not conscious of any Offence committed by him with respect to any one of them, so it is with a particular Concern and Surprize that he reflects on those two, wherein he is accused of High Treason, for endeavouring to procure *Tournay* to *France*, and to deprive the States of that intended part of their Barrier; and for procuring *Spain* and *West-Indies* to the Duke of *Anjou*, upon his Renunciation of the Crown of *France*. Referring himself to what he has said in his Answer to both these Articles, he here further assures your Lordships (and thinks it is sufficiently known both at home and abroad) that his Opinion and endeavour as Occasion offer'd, always were for *Tournay's* remaining, as it now does, to the States-General; and as to the latter, he doubts not but that what was lately happen'd in *France*, is a convincing Proof to your Lordships, and to all the World, that the Renunciation was the best Expedient that could have been propos'd towards hindring the Two Kingdoms from being United under one and the same Monarch, that that Branch of the Treaty which relates to this Expedient has fully answer'd its End, and made good the Character given of it by the Queen, *That it would Execute it self*; and therefore that whoever advis'd this Method of separating the two Crowns, was so far from being Guilty of any traitorous Design, that he eminently promoted the Welfare of *Great Britain*, and the Good of *Christendom*. The said Earl, with all the Assurances of an innocent Man, begs leave to repeat, that as well in this as in all other Affairs of State, in which he had the Honour to be employ'd by her late Majesty, he ever acted according to the best of his Skill and Judgment, with sincere Desires and Intentions to serve the Publick, and without any View to his private Advantage. As he was in several great Stations under her Majesty, he came into all of them by her own special Command, without his seeking or desiring them; and he serv'd her in all with the utmost Respect, Zeal and Faithfulness. And while he continu'd in these Stations for many Years, it was with great Wonder and Pleasure that he observ'd how her Majesty's whole Thoughts, Endeavours and Time were divided between her Duty to God, and her Love to her People, whose Good and Security she prefer'd always to her own Ease, and often hazarded her Health and Life it self, to procure it. He knew that the most effectual way for any One to recommend himself to her good Opinion, was to act upon the same Principles of Justice and Love to his Country, that she did: And as she abhor'd the Thoughts of any thing Burthensome or Injurious to her People; so she often express'd her self with the greatest Satisfaction and Delight, when she reflected on the Advantages obtain'd by her for her own Subjects, and the Quiet and Repose she had gain'd for *Europe*, by that Just and Honourable Peace, for which as the present Age does, so Generations to come will, Bless the Memory of that Excellent and Renowned QUEEN!

F I N I S.

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